

**AGENDA OF THE
HAILEY CITY COUNCIL
SPECIAL MEETING
Monday April 06, 2020 * 5:00 PM * Hailey City Hall Meeting Room**

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ACTION ITEM = a vote may occur but is not required to be taken

ACTION ITEM.....

5:00 p.m. CALL TO ORDER - Open Session for Public Concerns

MAYOR'S REMARKS:

MR 000

PUBLIC HEARING:

PH 162 Public Hearing on Ordinance No. 1258 to amend Hailey Ordinance No. 1103 to grant a six-month extension of Hailey's rubbish franchise ordinance – adopt, waive 2 readings, authorize 1 reading by title only and authorize Mayor to sign **ACTION ITEM**..... 1

PH 163 Consideration and adoption of Resolution 2020-045, authorizing a Second Amendment Extending Residential and Commercial Rubbish Franchise Agreements **ACTION ITEM**4

STAFF REPORTS: Staff Reports Council Reports Mayor's Reports

Matters & Motions from Executive Session or Workshop

Next Ordinance Number – 1261 and then 1263 Next Resolution Number- 2020-46

HAILEY ORDINANCE NO. 1258

AN ORDINANCE OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO, GRANTING OBRAS LLC, D.B.A. CLEAR CREEK DISPOSAL, A SIX-MONTH EXTENSION TO THE FRANCHISE TO COLLECT SOLID WASTE AND RECYCLABLE MATERIALS IN THE CITY OF HAILEY, IDAHO; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hailey City Council granted through Ordinance No. 1003 a rubbish hauling franchise for residential customers and a franchise for commercial customers within the City of Hailey which will expire on April 10, 2020; and

WHEREAS, the Hailey City Council finds that it is in the best interests of the citizens of Hailey to identify new elements for rubbish hauling, including potentially instituting a compost-hauling program; and

WHEREAS, more time is needed for that effort than exists within the current franchise ordinance and its associate agreements; and

WHEREAS, the Hailey City Council finds that it is in the best interests of the citizens of Hailey to amend Ordinance No. 1103 to extend the term of the ordinance by six (6) months.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO:

Section 1. Hailey Ordinance No. 1103 is amended by the addition of the underlined language and the deletion of the stricken language within **Section 2 Grant of Franchise** as follows:

2. GRANT OF FRANCHISE

Pursuant to Idaho Code §50-329, the City of Hailey hereby grants to the Franchisee the authority, right, privilege and exclusive franchise for a term of ~~five (5) years~~ six (6) months ~~with an additional three (3) year renewal term~~, beginning April 11, 2020~~12~~, to engage in the business of collecting, transporting, processing and disposing of Solid Waste and separated Recyclable Materials kept or accumulated and placed for collection by all Residential and Commercial Customers within the corporate limits of Hailey, Idaho, and to perform all of the work described in the Franchise Agreements; provided, however, this authority, right, privilege and exclusive franchise does not extend to the Self-Hauling of Solid Waste, Recyclable Materials, Hazardous Materials or medical waste. It shall be unlawful for any person or legal entity to engage in the business of Solid Waste and Recyclable Materials collection and transportation over and upon the public right-of-ways within the City of Hailey, except as otherwise provided herein.

Section 2. Hailey Ordinance No. 1103 is amended by the addition of the underlined language and the deletion of the stricken language within **Section 10 Effective Date** as follows

10. EFFECTIVE DATE

Except as otherwise provided herein, this Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law. The rates adopted under Section 4(E) of this Ordinance for Solid Waste and Recyclable Materials collection services shall be effective beginning May 1, 2020~~12~~; the rates in effect on the effective date of this Ordinance shall continue in effect through midnight, April 30, 2020~~12~~.

Section 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 4. REPEALER CLAUSE. All Ordinances or Resolutions or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS 6TH DAY OF APRIL, 2020.

Martha Burke, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

Publish: Idaho Mountain Express, April 8, 2020

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**CITY OF HAILEY
RESOLUTION NO. 2020-045**

**RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF HAILEY
AUTHORIZING THE EXECUTION OF 2nd AMENDMENT TO THE RESIDENTIAL
AND COMMERCIAL FRANCHISE AGREEMENTS WITH OBRAS, LLC D/B/A
CLEAR CREEK DISPOSAL, INC., FOR RESIDENTIAL AND COMMERCIAL SOLID
WASTE AND RECYCLABLE MATERIAL COLLECTION**

WHEREAS, the City of Hailey desires to enter into an agreement with Obras, Llc D/B/A Clear Creek Disposal, Inc. under which Obras, Llc D/B/A Clear Creek Disposal, Inc. will perform and be responsible for Residential And Commercial Solid Waste And Recyclable Material Collection for the City of Hailey.

WHEREAS, the City of Hailey and Obras, Llc D/B/A Clear Creek Disposal, Inc. have agreed to the terms and conditions of the Agreement, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that the City of Hailey approves the Second Amendment To The Residential And Commercial Franchise Agreements between the City of Hailey and Obras, Llc D/B/A Clear Creek Disposal, Inc. and that the Mayor is authorized to execute the attached Agreement,

Passed this 6th day of April, 2020.

City of Hailey

Martha Burke, Mayor

ATTEST:

Mary Cone, City Clerk

Second Amendment to Franchise Agreements
(Residential & Commercial Solid Waste and Recyclable Materials Collection)

This second Amendment to Franchise Agreements (**Agreements**) is made and entered into this 12th day of April, 2020, by and between the City of Hailey, a municipal corporation (Hailey) and OBRAS, L.L.C., an Idaho limited liability company, d/b/a Clear Creek Disposal, Inc., an Idaho Corporation (**Contractor**).

RECITALS

A. The City of Hailey is a Municipal Corporation and political subdivision of the State of Idaho and has authority to enter into this Second Amendment to Franchise Agreements. Martha Burke is the duly elected and acting Mayor of Hailey. The Hailey City Council has authorized the Mayor to execute this Agreement.

B. Contractor is duly organized and acting limited liability company in the State of Idaho. Mike Goitiandia is the duly appointed and acting Managing Member of Contractor and has the authority to enter into this Agreement.

C. Hailey and Contractor entered into two Franchise Agreements (1. Residential & 2. Commercial Solid Waste and Recyclable Materials Collections) on or about April 20, 2012, which agreement was Amended on October 1, 2012.

D. Hailey, on Motion duly made and adopted by a majority of City Council, pursuant to the terms of said Franchise Agreements, extended to the agreements for a three (3) year term to expire at midnight on April 10, 2020.

E. Hailey and Contractor wish to enter into a Second Amendment to both the Residential and Commercial Franchise Agreements, to extend the term of the Agreements adopted on April 20, 2012 as thereafter amended and extended for a six (6) month period to expire at midnight on October 12, 2020.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agreements are hereby amended as follows:

1. Term. The Term of both Franchise Agreements (Residential & Commercial Solid Waste and Recyclable Materials collection) shall extend from April 11, 2020 for a six (6) month period to expire at midnight on October 12, 2020.

2. Bi-annual Report. The contractor shall submit to Hailey a bi-annual report on October 12, 2020 setting forth the same information required under the original, as amended, Residential and commercial solid Waste and recyclable Materials Collection Franchise Agreements.
3. Except as amended hereby, the terms and conditions set forth in the Agreements referenced herein shall remain in full force and effect; provided however, that in the event of any conflict between the terms and conditions of this Second Amendment and the First Amendment or original Agreements, the terms and conditions of this Second Amendment shall prevail.

IN WITNESS thereto, the parties have executed this Second Amendment to Franchise Agreements (Residential & Commercial Solid Waste and Recyclable Materials Collection) on the day and year first above written.

CITY OF HAILEY

By: _____
Martha Burke, Mayor

ATTEST:

Mary Cone, City Clerk

CONTRACTOR

By: _____
Mike Goitindia, Managing Member

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