

CITY OF ORTING
WASHINGTON
RESOLUTION NO. 2015-9

**A RESOLUTION OF THE CITY OF ORTING,
WASHINGTON, AUTHORIZING THE MAYOR TO ENTER
INTO THE FIRST AMENDMENT TO FRANCHISE
AGREEMENT BETWEEN THE CITY OF ORTING AND
D.M. DISPOSAL CO., INC. FOR WASTE COLLECTION
SERVICES**

WHEREAS, on April 1, 2012, the City and D.M. Disposal Co., Inc. entered into that certain *Franchise Agreement Between the City of Orting and D.M. Disposal Co., Inc.*, as subsequently modified, amended, and/or extended (the "Agreement"), for the collection, transportation, and disposal of all residential Solid Waste, Recyclable Materials, Yard Debris, and Bulky Goods, and all Commercial Solid Waste generated, deposited, accumulated, or otherwise coming to exist in the Franchise Area within the City; and

WHEREAS, the City and D.M. Disposal Co., Inc. wish to amend the Agreement to extend the term thereof, to modify the nature of the services provided by Franchisee, to increase the disposal rates and to otherwise modify the Agreement as provided for herein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORTING, WASHINGTON, DOES RESOLVE AS FOLLOWS:

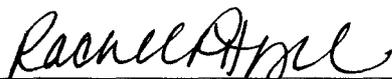
Section 1. The Mayor is hereby authorized to enter into the First Amendment to Franchise Agreement between the City of Orting and D.M. Disposal Co., Inc., in the form attached hereto as Exhibit A, with attachment.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 8TH DAY OF JULY, 2015.

CITY OF ORTING

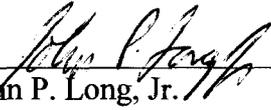

Joachim Pestinger, Mayor

ATTEST/AUTHENTICATED:



Rachel Pitzel, City Clerk

Approved as to form:



John P. Long, Jr.
Kenyon Disend, PLLC
City Attorney

Filed with the City Clerk: 7/8/2015
Passed by the City Council: 7/8/2015
Resolution No.: 2015-9

**FIRST AMENDMENT TO FRANCHISE AGREEMENT BETWEEN
THE CITY OF ORTING AND D.M. DISPOSAL CO., INC.**

This First Amendment to Franchise Agreement Between the City of Orting and D.M. Disposal Co., Inc. (this "Amendment"), is made and entered into by and between the City of Orting, a Washington municipal corporation (the "City"), and D.M. Disposal Co., Inc., a Washington corporation ("Franchisee"). The City and Franchisee may be collectively referred to herein as the "Parties" and individually as a "Party," unless specifically identified otherwise. This Amendment shall be effective upon the Effective Date as defined below. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement (as defined below).

RECITALS

WHEREAS, on April 1, 2012, the Parties entered into that certain *Franchise Agreement Between the City of Orting and D.M. Disposal Co., Inc.*, as subsequently modified, amended, and/or extended (the "Agreement"), for the collection, transportation, and disposal of all residential Solid Waste, Recyclable Materials, Yard Debris, and Bulky Goods, and all Commercial Solid Waste generated, deposited, accumulated, or otherwise coming to exist in the Franchise Area within the City; and

WHEREAS, the Parties wish to amend the Agreement to extend the term thereof, to modify the nature of the services provided by Franchisee, and to otherwise modify the Agreement as provided for herein.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties mutually agree, represent, and warrant as follows:

1. Amendment to Section 3 of the Agreement. Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following

3. **TERM OF FRANCHISE.**

The initial term of this Franchise shall commence on the Effective Date as set forth in Section 4.3 and, unless sooner terminated in accordance with the provision of this Franchise, shall expire on July 31, 2022 (the "Initial Term"). Upon expiration of the Initial Term, this Agreement shall automatically renew for one (1) additional two (2) year period under the same terms and conditions hereof, unless the City determines, in its reasonable discretion, that Franchisee is providing inadequate or insufficient services to customers, in breach of the terms and conditions hereof; provided, that Franchisee shall have thirty (30) days to cure said breach after receiving written notice from the City. Additionally, this Franchise may, upon the mutual written consent of the City and Franchisee, be extended for a mutually agreed upon term, in order to facilitate changes associated with the implementation of new

technology not required by this Franchise, or changes in service level or frequency that improve the efficiencies and levels of service provided herein, or any other improvements desired by the City.

2. Amendment to Section 5.1 of the Agreement. Section 5.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

5.1 Residential Collection Services. Franchisee shall furnish all labor, supervision, materials, supplies, equipment and all other items required to collect and dispose of all Garbage, and, for those residential customers that have signed up for collection of Recyclable Materials and Yard Debris, to collect and handle all Recyclable Materials and Yard Debris generated or accumulated from residential premises within the Franchise Area. The work to be done by Franchisee as set forth in this Franchise shall be accomplished in a professional manner so that the residents within the Franchise Area are provided reliable, courteous, and high-quality collection of Solid Waste.

3. Amendment to Section 5.6 of the Agreement. Section 5.6 of the Agreement is hereby deleted in its entirety and replaced with the following:

5.6 Cart Service. All Residential Customers that sign up for collection of Garbage, Recyclable Materials, and Yard Debris shall use Franchisee-owned Garbage Carts, Recycling Carts, and Yard Debris Carts, which shall serve as their primary Containers for Garbage, Recyclables, and Yard Debris. Plastic bags may be used for overflow volumes of Garbage as allowed under the Orting Municipal Code, but not as a Customer's primary Container. Commercial Customers shall be provided Franchisee-owned Containers for Solid Waste collection, depending upon the level of service. All Containers provided by Franchisee shall remain the property of Franchisee. Customers shall not overfill Containers, and material that does not fit neatly within a Container may be subject to additional fees, as set forth in Exhibit A. The Franchisee is responsible for collection of all Containers that do not exceed the weight limits, described below:

10-gallon Cart	15 lbs
20-gallon Cart	30 lbs
32-gallon Cart	45 lbs
64-gallon Cart	90 lbs

95-gallon Cart 135 lbs

If a Container exceeds the weight limits set forth in this Section, the Franchisee may refuse service and shall tag the overweight Container. If service can be safely provided, the Franchisee shall charge the equivalent extra bag charge. The Franchisee shall work with Customers to provide alternatives so that future service will not be disrupted. Replacement Containers may be subject to a fee as set forth in Exhibit A.

4. Amendment to Exhibit A of the Agreement. Exhibit A of the Agreement is hereby deleted in its entirety and replaced with the attached Exhibit A.

5. Amendment to Section 25 of the Agreement. Franchisee's notice provisions are updated as follows:

Franchisee's address: D.M. Disposal Co., Inc.
 4622 70th Avenue East
 Fife, WA 98424
 Attention: District Manager

With a copy to: Waste Connections, Inc.
 3 Waterway Square Place, Suite 110
 The Woodlands, TX 77380
 Attention: Legal Department

6. Counterparts. This Amendment may be executed in one or more facsimile or original counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

7. Ratification. All terms and provisions of the Agreement not amended hereby, either expressly or by necessary implication, shall remain in full force and effect. From and after the date of this Amendment, all references to the term "Agreement" in this Amendment and/or in the Agreement shall include the terms contained in this Amendment.

8. Conflicting Provisions. In the event of any conflict between the terms of the Agreement and this Amendment, the terms of this Amendment shall prevail.

9. Effective Date. The Effective Date of this Amendment shall be August 1, 2015.

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the Parties enter into this Amendment. Each person signing this Amendment represents and warrants that he or she has been duly authorized to enter into this Amendment by the Party on whose behalf it is indicated that the person is signing.

CITY OF ORTING

By: Joachim Pestinger
Name: Joachim Pestinger
Title: Mayor
Date: _____

ATTEST:

Rachel Pitzel
Rachel Pitzel, City Clerk

D.M. DISPOSAL CO., INC.

By: _____
Name: _____
Title: _____
Date: _____

ATTEST:

City of Orting
 PO Box 489
 Orting WA 98360

EXHIBIT - A - 11/1/2015

	3/1/2015	11/1/2015		% Change	Rate Change	Number of Subscribers
Can Service:						
Micro Can - 10gallon Cart	12.65	12.90	per month	1.98%	0.25	41
Mini Can - 20gallon Cart	17.03	17.37	per month	2.00%	0.34	34
One Can - 32gallon Cart	20.63	21.12	per month	2.38%	0.49	1646
Two Can - 64gallon Cart	32.25	32.86	per month	1.89%	0.61	421
Three Can - 96gallon Cart	43.87	44.52	per month	1.48%	0.65	20
Packout/Drive-in	9.23	9.23	per month	0.00%	0.00	11
Occasional extra	5.70	5.70	per unit	0.00%	0.00	
Return trip	7.06	7.06	per trip	0.00%	0.00	
Container Service:						
1 yard once a week	91.90	91.90	per month	0.00%	0.00	
1 yard twice a week	176.64	176.64	per month	0.00%	0.00	
1.5 yard once a week	124.85	124.85	per month	0.00%	0.00	
1.5 yard twice a week	246.69	246.69	per month	0.00%	0.00	
2 yard once a week	161.36	161.36	per month	0.00%	0.00	
2 yard twice a week	313.38	313.38	per month	0.00%	0.00	
2 yard three times a week	470.99	470.99	per month	0.00%	0.00	
4 yard once a week	303.83	303.83	per month	0.00%	0.00	
4 yard twice a week	600.39	600.39	per month	0.00%	0.00	
4 yard three times a week	897.01	897.01	per month	0.00%	0.00	
6 yard once a week	432.16	432.16	per month	0.00%	0.00	
6 yard twice a week	854.38	854.38	per month	0.00%	0.00	
6 yard three times a week	1,276.62	1,276.62	per month	0.00%	0.00	
6 yard Five times a week	2,076.44	2,076.44	per month	0.00%	0.00	
4 yard compactor once a week 5:1	1,294.21	1,294.21	per month	0.00%	0.00	
1 yard extra on regular route	21.70	21.70	per pickup	0.00%	0.00	
1.5 yard extra on regular route	29.32	29.32	per pickup	0.00%	0.00	
2 yard extra on regular route	37.73	37.73	per pickup	0.00%	0.00	
4 yard extra on regular route	70.92	70.92	per pickup	0.00%	0.00	
6 yard extra on regular route	100.78	100.78	per pickup	0.00%	0.00	
4 yard compactor extra regular route 5:1	299.21	299.21	per pickup	0.00%	0.00	
Bulky Extra on route	13.71	13.71	per pickup	0.00%	0.00	
Connect/Reconnect	11.32	11.32	per unit	0.00%	0.00	
Yard Waste 90-gal toter	5.11	5.11	per month	0.00%	0.00	
Occasional extra yard waste	2.45	2.45	per pickup	0.00%	0.00	
MF-Recycling	4.27	4.27	per month	0.00%	0.00	
Redeliver Cart	15.25	15.25	per delivery	0.00%	0.00	
Additional Recycling Cart	6.50	6.50	per month	0.00%	0.00	