

## ORDINANCE NO. 2430

### AN ORDINANCE EXTENDING THE FRANCHISE OF ROATS WATER SYSTEM, INC. THROUGH JULY 1, 2027

#### Recitals

A. On June 7, 2000, the City granted by ordinance franchises to Roats Water System, Inc. ("Roats") and Avion Water Company ("Avion") to provide water service to specific areas within the Bend city limits. See Ordinance Nos. NS-1747 (Roats), NS-1748 (Avion). The franchises each had a twenty-year term.

B. In July 2007, the City amended Avion's agreement by, among other things, extending the term of the franchise for an additional seven years, through July 1, 2027. Ordinance No. NS-2060. Roats' franchise was not similarly extended.

C. The initial term of Roats' franchise (the "Franchise") expired in October 2020. To provide additional time for the City and Roats to negotiate a new agreement, the City extended the Franchise through December 31, 2021. See Ordinance No. NS-2386. Negotiations proceeded in good faith between October 2, 2020 and November 29, 2021. However, the parties were not able to reach a final agreement.

D. Several of the items being negotiated with Roats are equally applicable to Avion. The City and Roats agreed that it would be preferable for both the public and the franchisees for Avion to also be involved in any subsequent franchise negotiations.

E. Accordingly, the City and Roats agreed it was in the best interests of both parties to extend the term of Roats' franchise from December 31, 2021, the current expiration date, through July 1, 2027, to align its termination with Avion's franchise.

F. Aligning the termination dates of both water service franchises will allow the City to negotiate the renewal of Roats and Avion's franchise agreement simultaneously, and ensure that the two franchisees are subject to substantially similar franchise terms and conditions.

G. The terms of Roats' existing agreement are sufficient to protect the City's interest in managing its right-of-way.

#### THE CITY OF BEND ORDAINS AS FOLLOWS:

**Section 1.** The term of the Franchise, as amended, is extended and shall continue from December 31, 2021 through July 1, 2027.

**Section 2.** Continued use of City rights of way by Roats after December 31, 2021, shall be deemed acceptance of the extension by Franchisee.

**Section 3.** The City Council finds that this ordinance is necessary for the health, safety and welfare of the public, and finds that an emergency exists. To

limit the amount of time Roats is operating in the right-of-way without a franchise, the ordinance is necessary on an emergency basis and will be effective immediately upon adoption on its second reading.

**Section 4.** If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading: December 15, 2021

Second reading and adoption by roll call vote: January 5, 2022

Sally Russell  
Sally Russell, Mayor

ATTEST:

Robyn Christie, City Recorder

Approved as to form:

Mary Winters, City Attorney