

TITLE 4. FRANCHISES

CHAPTER 4.12
PACIFICORP FRANCHISE

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4.12.010 Introduction

This Non-Exclusive Electric Utility Franchise Agreement (“Agreement” or “Franchise”) is between the CITY OF STAYTON, a municipal corporation of the state of Oregon (“City”), and PACIFICORP dba Pacific Power, an Oregon business corporation (“Franchisee”).

4.12.020 Definitions

Any capitalized term used but not defined in this Agreement shall have the meaning set forth in the Stayton Municipal Code Title 4 Franchises.

1. **“Electric Facilities”** shall mean Franchisee’s electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, communication lines, distribution and related facilities for electric vehicles, and other physical components located within any Right-of-Way within the City by virtue of the rights granted under this Agreement, or predecessor franchise agreement.
2. **“Gross Revenues”** shall mean any and all revenue of Franchisee derived from the retail sale and use of electric power and energy within the municipal boundaries of the City, including (i) revenues from the sale to and use of electricity and electric service by Franchisee’s retail customers within the municipal boundaries of the City, and (ii) revenues from the use, rental, or lease of Electric Facilities to serve Franchisee’s retail customers located within the municipal boundaries of the City, in each case, excluding amounts charged and received for separately billed governmental taxes and governmental fees, and after adjustment for the net write-off of uncollectible accounts and bill corrections.
3. **“Right-of-Way”** shall mean the space in, upon, above, along, across, over, or under any public street, road, highway, bridge, alley, sidewalk, trail, path, parking strip, public easement on private property, and all other public ways or areas, to the extent that the City owns or controls said ways or areas, and holds the necessary right, title, interest, and authority to grant a franchise to occupy and use such areas for the purpose herein stated.

4.12.030 Grant of Franchise

Subject to the Stayton Municipal Code, the City hereby grants to Franchisee the right, privilege, and authority to construct, maintain, operate, upgrade, and relocate its Electric Facilities in, under, along, over and across the present and future Right of Ways within the City, for the purpose of supplying and transmitting electric power and energy utility service on the terms and conditions stated herein. This Franchise, and the grant of authority herein, is subject to prior rights, interests,

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agreements, regulations, rules, permits, easements or licenses granted by the City, the City code, and to the City's and the public's right to use and administer the Right-of-Way. Likewise, this Franchise does not apply to Electric Facilities that do not rely on the authority granted under this franchise to be located in a particular Right-of-Way, i.e., areas in a Right-of-Way where Franchisee holds requisite real property rights such as a private easement or fee simple title.

4.12.040 Term

The initial term of this Franchise is for ten (10) years ("Initial Term"), commencing on the Effective Date, as defined under Section 25 below. This Agreement shall renew automatically each year thereafter, up to ten (10) years, if neither party provides written notice of non-renewal to the other party at least six (6) months prior to the expiration of the Initial Term.

4.12.050 Acceptance by Franchisee

Within sixty (60) days after the passage of the ordinance adopting this Agreement by the City, Franchisee shall file an unqualified written acceptance thereof, with the City Recorder, otherwise the ordinance and the rights granted herein shall be null and void.

4.12.060 Non-Exclusive Franchise

The right to use and occupy the Rights of Way of the City shall be nonexclusive, and the City reserves the right to grant similar franchise rights to any other person or entity and the right to use the Rights of Way for itself or any other entity that provides service to City residences; provided, however, that such use shall not unreasonably interfere with Franchisee's Electric Facilities or Franchisee's rights granted herein.

4.12.070 City Regulatory Authority

In addition to the provision herein contained, the City reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Oregon, the laws of Oregon or City Ordinances.

4.12.080 Indemnification

The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation, or maintenance by Franchisee of its Electric Facilities. Franchisee shall

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indemnify, defend, and hold the City, its officers, agents, or employees (“City Parties”) harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account of Franchisee’s, or its agents’, employees’, or contractors’ (“Franchisee Parties”), use of the Rights-of-Way within the City, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. The City shall: (a) give prompt written notice to Franchisee of any claim, demand, or lien with respect to which the City seeks indemnification hereunder; and (b) unless in the City's judgment a conflict of interest exists between the City and Franchisee with respect to such claim, demand, or lien, permit Franchisee to assume the defense of such claim, demand, or lien with counsel satisfactory to City. If such defense is not assumed by Franchisee, Franchisee shall not be subject to liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, Franchisee shall not be obligated to indemnify, defend, or hold the City harmless to the extent any claim, demand, or lien arises out of or in connection with any negligent or willful act or failure to act of the City Parties. Franchisee agrees that it is not an agent of the City and is not entitled to indemnification and defense under ORS 30.285 or 30.287.

4.12.090 Insurance

Franchisee shall purchase and maintain at Franchisee’s expense, or otherwise provide through a program of self-insurance, Commercial General Liability and Commercial Automobile Insurance covering bodily injury and property damage in an amount of Five Million Dollars (\$5,000,000.00). Franchisee’s insurance policy shall be primary and non-contributory, and Franchisee shall remain fully responsible for any claims resulting from negligence or intentional misconduct of Franchisee or Franchisee Parties in performance of this Agreement, even if not covered by or in excess of insurance limits. Additionally, Franchisee shall obtain and maintain Workers’ Compensation insurance required by ORS Ch. 656. Franchisee shall ensure that each of its contractors obtains and maintains workers’ compensation insurance and obtains proof of the coverage before performing work. Franchisee shall provide proof of coverage required by this Section, by acceptable Certificate of Insurance and Endorsement from their respective carrier(s) or, if self-insured, a certificate of self-insurance with respect to the same. The City may, at any time, terminate this Franchise for Franchisee’s failure to maintain the required insurance.

4.12.100 Annexation

- 1. Extension of City Limits.** Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All Electric Facilities owned, maintained, or operated by Franchisee located within any Right-of-Way of the annexed territory shall thereafter be subject to all of the terms hereof.

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2. **Annexation.** When any territory is approved for annexation to the City, the City shall, no later than ten (10) calendar days after passage of an ordinance approving the proposed annexation, provide by both first-class and certified mail to Franchisee:
 - a. each site address to be annexed as recorded on county assessment and tax rolls;
 - b. a legal description of the proposed boundary change; and
 - c. a copy of the City's ordinance approving the proposed annexation.

The notice shall be mailed to the addresses set forth in Section 21 of this Agreement.

Additional or increased fees or taxes, other than ad valorem taxes, imposed on Franchisee as a result of an annexation of territory to the City shall become effective on the effective date of the annexation provided notice is given to Franchisee in accordance with ORS 222.005, as amended from time to time.

4.12.110 Planning, Design, Construction, and Operation of Electric Facilities

1. Franchisee shall conduct its operations under this Agreement, including construction, installation, maintenance, repair, replacement, upgrade, and operation of its Electric Facilities in accordance with applicable federal, state and city laws, codes and regulations.
2. Except in the case of an emergency, Franchisee shall, prior to commencing new construction or major reconstruction work in the Right-of-Way, apply for a permit from the City. The City shall not allow the permit to be unreasonably withheld, conditioned, or delayed. Franchisee will abide by all applicable ordinances and all reasonable rules, regulations and requirements of the City, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. Nothing in this Agreement shall be construed to limit the right of the City to require Franchisee to pay permit or to cover reasonable costs incurred by the City in connection with the issuance of a permit, making an inspection, or performing any other service for or in connection with the Franchisee or its Electric Facilities. Notwithstanding the foregoing, Franchisee shall not be obligated to obtain a permit to perform emergency repairs.
3. All Electric Facilities shall be located so as to cause minimum interference with the Rights-of-Way of the City and shall be constructed, installed, maintained, cleared of vegetation, renovated, or replaced in accordance with applicable rules, ordinances, and regulations of the City.
4. **Restoration.** If, during the course of work on its Electric Facilities, Franchisee

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causes damage to or alters the Right-of-Way or public property, Franchisee shall (at its own cost and expense and in a manner approved by the City) replace and restore it to a condition comparable to that which existed before the work commenced. City may refuse to issue additional permits to Franchisee if Franchisee fails to restore said Right-of-Way or public property within sixty (60) days of the original damage or alteration or such longer period as is approved by City, acting in its reasonable discretion based on the nature and scope of the required work and all other applicable circumstances.

5. **Notification.** City and Franchisee shall comply with the requirements of Oregon Utility Notification Law and implementing rules and regulations in connection with the work performed by or on behalf of each of them in the Rights of Way.
6. In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, Franchisee shall, upon payment of all charges provided in its tariffs or their equivalent, place newly constructed electric distribution lines underground as may be required by City ordinance.
7. The City shall have the right to use all poles and suitable overhead structures owned by Franchisee within the Rights-of-Way without cost for City wires used in connection with its fire alarms, police signal systems, or other communication lines used for governmental purposes; provided, however, any such uses shall be for activities owned, operated, or used by the City for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that Franchisee shall assume no liability, nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the City shall be in such a manner as to prevent safety hazards or interferences with Franchisee's use of same. Nothing herein shall be construed to require Franchisee to increase pole size or alter the manner in which Franchisee attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. City attachments shall be installed and maintained in accordance with the reasonable requirements of Franchisee and the current edition of the National Electrical Safety Code pertaining to such construction. Further, City attachments shall be attached or installed only after written approval by Franchisee.
8. Subject to the aforementioned requirements of sub-section 10.2, Franchisee shall have the right to excavate the Rights-of-Way subject to reasonable conditions and requirements of the City, including but not limited to Stayton Municipal Code Section 12.04.140. Before installing new underground conduits or replacing existing underground conduits, Franchisee shall first notify the City of such work and shall allow the City, at its own expense, to share the trench of Franchisee to lay its own conduit therein, provided that such action by the City will not unreasonably interfere with Franchisee's Electric

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Facilities or delay project completion.

9. Before commencing any street improvements or other work within a Right-of-Way that may affect Franchisee's Electric Facilities, the City shall give written notice to Franchisee.
10. No structures, buildings, or signs shall be erected below Franchisee's Electric Facilities or in a location that prevents access by Franchisee to maintain its facilities.

4.12.120 Franchisee Records and Reports

1. **Reports and Mapping.** Franchisee shall provide the City with a report of all new services created within City boundaries on an annual basis during the term of this Franchise, and said report shall include, at City's advance written request, electronic mapping of Franchisee's Electric Facilities within the City limits. The City shall confirm receipt of the report and request any corrections thereto to Franchisee within a reasonable time following receipt of the report.

Franchisee's electronic mapped facility data will consist of poles, pad mount transformers, and wire located within the city limits w. Attribute information will be limited to facility identifiers. Data can be provided in a ESRI compatible geodatabase with associated metadata or other mutually agreed upon format.

With respect to any information, including but not limited to the mapping data, which Franchisee furnishes or otherwise discloses to the City under this section, Franchisee does not make any representations or warranties as to the accuracy, completeness or fitness for a particular purpose thereof. It is further understood and agreed that neither Franchisee nor its representatives shall have any liability or responsibility to the City or another party or to any other person or entity resulting from the use of any information or data so furnished or otherwise provided. Mapping data is provided for general location purposes only and may not accurately identify the exact location of facilities or current construction. No attempt has been made to verify the records to reflect current site conditions and Franchisee is not responsible or liable for any injury, death or damage that may result from differing site conditions.

The information furnished by Franchisee is provided with the understanding that the City will treat the information as confidential, to the extent possible, under the Oregon Public Records Act. If a public records request is made for any respective information included under this Agreement, the City will provide Franchisee with notice of the request and sufficient time to seek a protective order prior to providing the documentation to any third party.

2. **Books and Records; Audit.** Franchisee shall keep accurate books of financial accounts at an office within the State of Oregon throughout the term of this

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Franchise, and for at least six (6) years after the expiration or termination of this Franchise Agreement. Franchisee shall produce all books and records directly concerning its Gross Revenues and other financial information necessary to calculate the Franchise Fee consistent with Section 15 below for inspection by City, upon 10 days' written notice, during normal working hours; provided that only records that support payments which occurred during a period of three (3) years prior to the date the City notifies Franchisee of its intent to conduct an inspection shall be subject to review. The City shall have the further right during the term of this Franchise, or within 180 days after expiration or termination of the Franchise, to audit Franchisee's records for the period of three years prior to the audit. If the audit reveals underpayment of seven percent (7%) or more, the City may expand the audit to cover up to six (6) years. The audits shall be undertaken by a qualified person or entity selected by the City, and the cost shall be borne by the City, unless the results of the audit reveal an underpayment of more than seven percent (7%) or more, then the full cost of the audit shall be paid by the Franchisee. Franchisee shall promptly pay the portion of the underpayment as determined by the audit not subject of a good faith dispute to City together with five percent (5%) annual interest from the date the payment should have been made to the date the payment is actually made. Any audit information obtained by the City shall be kept confidential to the maximum extent allowed by Oregon law.

4.12.130 City Rights and Obligations

1. **Supervision and Inspection.** With respect to all work performed by Franchisee under this Agreement, the City shall have the right to inspect all construction and installation of Franchisee's Electric Facilities to ensure compliance with governing laws, ordinances, rules, and regulations.
2. **Termination and Abandonment.** In the event of termination of this Franchise, if the City and Franchisee are not engaged in efforts to renew or renegotiate the terms of this Franchise, all the overhead Electric Facilities installed or used by Franchisee shall be removed by Franchisee at Franchisee's expense, or decommissioned and abandoned in place with approval of the City, and the property on which the Electric Facilities were used restored by Franchisee to the condition it was in before installation; and all underground Electric Facilities installed or used by Franchisee shall be decommissioned and abandoned in place. Consistent with state law, such removal or decommissioning and abandonment shall occur within one (1) year of termination or expiration of this Franchise.
3. **City's Work in Right-of-Way.** Whenever the City performs, causes, or permits to be performed any work within the Right-of-Way or adjacent property where, in the City's opinion, such work would disturb or interfere with Franchisee's Electric Facilities, the City shall, or shall require its agents, employees, or contractors, to notify, in writing, Franchisee sufficiently in

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advance of the contemplated work to enable Franchisee to take such measures as may be necessary to protect its Electric Facilities.

4. **Subdivision Plat Notification.** Before the City approves any new subdivision the City shall provide notice of the proposed subdivision and request for comments to PacifiCorp:

Pacific Power
Attn: Property Management/Right-of-Way Department
830 Old Salem Road
Albany, Oregon 97321

4.12.140 Relocation of Electric Facilities

1. **City Request.** The City reserves the right to require Franchisee to relocate overhead Electric Facilities within the Rights-of-Way in the interest of public convenience, necessity, health, safety or welfare, at no cost to the City. Within ninety (90) days after written notice to Franchisee that Franchisee may proceed with such relocation, Franchisee shall commence the overhead relocation of its Electric Facilities. Before requiring a relocation of Electric Facilities, the City shall, with the assistance and consent of Franchisee, identify a reasonable alignment for the relocated Electric Facilities within the Right of Way.
2. **Developer or Third-Party Request.** Franchisee shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of facilities is caused directly or otherwise by an identifiable development of private property in the area or any project sponsored or funded by a third party (including but not limited to any governmental agency or instrumentality other than the City), or is made for the benefit or convenience of a third-party (e.g., a customer of Franchisee), Franchisee may charge the expense of removal or relocation of the Electric Facilities to the developer or other third-party. For example, Franchisee shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of, or caused by, a private development. The City shall require the developer or third-party to pay Franchisee for such relocation costs, as part of its approval procedures (for example, a condition of approval). However, Franchisee shall be solely responsible for enforcing collection from the developer or other third-party, but Franchisee shall not be required to remove or relocate Electric Facilities for the benefit of third-parties until it receives payment for the removal or relocation. "Caused directly," as used in this sub-section, shall mean that the removal or relocation of Facilities due to private development or third party project is necessary to enable the developer or third party to make any improvements or otherwise satisfy any conditions required under any permit, rule, regulation, or other requirement applicable to the project.

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3. **Underground Conversion.** In cases of any project undertaken by the City, Franchisee shall remove and replace overhead Facilities with underground Facilities at the request of the City, so long as Franchisee is allowed to collect the costs associated with conversion from overhead to underground distribution facilities consistent with OAR 860-022-0046, the Oregon Public Utility Commission rule on forced conversions.
4. **Relocation Request; Responsiveness.** Franchisee agrees to respond within a reasonable timeframe but no later than thirty (30) days following a written request from City to all City requests (i) for relocation or conversions of Facilities within or around the Right-of-Way; (ii) for discussion(s) or meeting(s) on possible relocations or conversions; and (iii) for discussion(s) or meeting(s) on design, planning, or implementation of public works or other development projects or other proposals regarding the Right of Way, whether City initiated or private development, that may impact the Franchisee's Electric Facilities.

4.12.150 **Vegetation Management**

Franchisee or its contractor may prune all trees and vegetation which overhang the Rights-of-Way, whether such trees or vegetation originate within or outside the Rights-of-Way, to prevent the branches or limbs or other part of such trees or vegetation from interfering with Franchisee's Electric Facilities. Such pruning shall comply with the American National Standard for Tree Care Operation (ANSI A300) and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this section shall prevent Franchisee, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang streets.

4.12.160 **Compensation**

1. **Franchise Fee.** In consideration of the rights, privileges, and franchise hereby granted, Franchisee shall pay to the City from and after the Effective Date of the acceptance of this franchise, seven percent (7%) of its Gross Revenues derived from within the corporate limits of the City. The Franchise Fee shall be due and payable within 30 (thirty) days after the end of each month. With respect to any amount or portion thereof past due hereunder that is not disputed in good faith by Franchisee, the City shall have the right to charge interest at the rate of five percent (5%) per annum. With each payment, Franchisee shall furnish City with a written statement setting forth the amount of Gross Revenues of Franchisee within the City for the monthly period covered by the payment. City's acceptance of any payments due under this Section shall not be considered a waiver by the City of any breach of this Franchise.

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All amounts paid under this section shall be subject to review by the City; provided that only payments which occurred during a period of thirty-six (36) months prior to the date the City notifies Franchisee of its intent to conduct a review shall be subject to such review. Notwithstanding any provision to the contrary, at any time during the term of this Franchise, the City may elect to increase the Franchise Fee amount as may then be allowed by state law. The City shall provide Franchisee with prior written notice of such increase following adoption of the change in percentage by the City. The increase shall be effective sixty (60) days after City has provided such written notice to Franchisee.

2. The Franchise Fee shall not be in addition to any other license, occupation, franchise, or excise taxes or charges, excluding applicable permit fees under Section 10.2 and relocation expenses required to be paid by Franchisee under this Franchise, which might otherwise be levied or collected by the City from Franchisee with respect to Franchisee's electric business or the exercise of this franchise within the corporate limits of the City and the amount due to the City under any such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting there from the amount of said franchise fee paid hereunder.

4.12.170 Renewal

If neither party provides written notice of non-renewal to the other party at least six (6) months prior to the expiration of the Initial Term, after the Initial Term, this Agreement shall renew automatically for one year; and thereafter, this Agreement will continue to renew automatically each year for up to a total of ten (10) years. Franchisee shall have the continued right to use the Rights-of-Way of the City as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

4.12.180 No Waiver

Neither the City nor Franchisee shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

4.12.190 Transfer of Franchise

Franchisee shall not sell, assign, dispose of, lease, assign, or transfer in any manner whatsoever any interest in this Franchise, without written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. In the event the City provides such consent, the City may impose reasonable conditions, including but not limited to the requirement that the transferee acknowledge in

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writing and agree to be bound by the terms of this Franchise. City shall have the right to collect from Franchisee the actual administrative costs associated with processing a transfer request, including the cost of ascertaining the financial responsibility of the proposed transferee. Franchisee may mortgage this Franchise, together with its Electric Facilities, in order to secure any legal bond issue or other indebtedness of Franchisee, with no requirement of City's consent or that the trustees acknowledge in writing and agree to be bound by the terms of this Franchise.

4.12.200 Amendment

At any time during the term of this Franchise, the City, through its City Council, or Franchisee may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the City and Franchisee and formally adopted as an ordinance amendment.

4.12.210 Termination and Enforcement

1. **Termination.** The City may terminate this Franchise Agreement upon the failure of Franchisee to perform any material term, condition, or obligation imposed upon it under this Agreement; provided that the City shall first provide Franchisee written notice of any such failure and Franchisee shall have sixty (60) days from receipt of such notice to cure the failure, or if the failure cannot be reasonably cured with sixty (60) days, to commence and diligently pursue curing the failure. If Franchisee does not cure the failure within the sixty (60) day period, or does not commence and diligently pursue curing the failure, then the City Council may declare the Franchise Agreement terminated. The City shall provide a notice of termination to Franchisee, following the declaration of termination by City Council. Franchisee may challenge the notice of termination by providing a written protest to City Manager within twenty (20) business days of the date of the notice of termination. City Manager, upon receipt of protest, shall refer the protest to City Council for a public hearing and decision. The termination will not become final until a decision is made by City Council, at a public meeting. Given the public health and safety considerations that arise as a result of cessation of power distribution within the City, if the City decides to terminate the Franchise, it shall set a termination date that allows for implementation of a plan to assure continued electrical power delivery service.
2. **Non-contestability.** Neither the City nor Franchisee will take any action for the purpose of securing modification of this Franchise before either the Oregon

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Public Utility Commission or any Court of competent jurisdiction; provided, however, that neither shall be precluded from taking any action it deems necessary to resolve difference in interpretation of the Franchise nor shall Franchisee be precluded from seeking relief from the Courts in the event Oregon Public Utility Commission orders, rules or regulations conflict with or make performance under the Franchise illegal.

3. **Additional Claims; Remedies Non-Exclusive.** Notwithstanding the termination procedures under section 20.1 above, in the event Franchisee or the City fails to fulfill any of their respective obligations under this Franchise, the City, or Franchisee, whichever the case may be, will have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy which would have the effect of amending the specific provisions of this Franchise shall become effective without such action which would be necessary to formally amend the Franchise. The parties agree to make best and reasonable efforts to confer and discuss potential issues that may arise under this Agreement prior to exercising any additional breach of contract or legal claims, as may be available under law. All remedies granted herein under this Agreement are cumulative, and recovery or enforcement of one is not a bar to the recovery or enforcement of any other remedy. Failure to enforce any provision of this Agreement shall not be construed as a waiver of a breach of any other term, condition, or obligation of this Agreement.

4.12.220 Notices

Unless otherwise specified herein, all notices from Franchisee to the City, or the City to Franchisee, pursuant to or concerning this Franchise shall be delivered to:

FRANCHISEE

PacifiCorp Customer Contact Center
P.O. Box 400
Portland, Oregon 97202-0400

CITY OF STAYTON

Attn: City Manager
362 N. Third Avenue
Stayton, Oregon

WITH A COPY TO:

PacifiCorp
Attn: Office of the General Counsel
825 NE Multnomah, Suite 2000
Portland, Oregon 97232

4.12.230 Severability

If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such

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portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

4.12.240 Waiver of Jury Trial

To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

4.12.250 Governing Law Interpretation

Interpretation of this Franchise Agreement shall be governed by the laws of the State of Oregon and any legal action relating to this Franchise Agreement shall be brought in Marion County Circuit Court.

4.12.260 Effective Date

This Agreement shall be made effective upon the date on which the ordinance adopting this Agreement is effective (“Effective Date”), April 7, 2025.