

**ORDINANCE NO. 00-01**

**AN ORDINANCE OF LIBERTY COUNTY, FLORIDA, PROVIDING FOR THE GRANTING OF AN EXCLUSIVE FRANCHISE TO WASTE MANAGEMENT OF BAY COUNTY, A DIVISION OF WASTE MANAGEMENT, INC. OF FLORIDA, FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF NON-HAZARDOUS GARBAGE, TRASH AND OTHER WASTE FOR RESIDENCES AND BUSINESS ESTABLISHMENTS WITHIN THE UNINCORPORATED AREAS OF LIBERTY COUNTY, FLORIDA; PROVIDING DEFINITIONS; PROVIDING FOR GRANTING OF FRANCHISE; PROVIDING FOR LIMITS OF FRANCHISE; PROVIDING FOR TERM OF FRANCHISE; PROVIDING FOR ASSIGNMENT OF FRANCHISE/ PROVIDING FOR BANKRUPTCY OR INSOLVENCY, PROVIDING FOR DEFAULT; PROVIDING FOR RIGHT OF FIRST REFUSAL; PROVIDING FOR RESTORATION; PROVIDING FOR COMPLIANCE WITH LAW; PROVIDING FOR LIABILITY INSURANCE AND WORKERS COMPENSATION; PROVIDING FOR INDEMNIFICATION; PROVIDING FOR PERFORMANCE BOND; PROVIDING FOR SEVERABILITY; PROVIDING FOR OPERATIONS DURING DISPUTES; PROVIDING STANDARD OF PERFORMANCE; PROVIDING FOR COLLECTION SERVICES AND OPERATIONS; PROVIDING FOR OFFICE AND COLLECTION HOURS; PROVIDING FOR COLLECTION EQUIPMENT; PROVIDING FOR DISPOSAL; PROVIDING ROUTES AND SCHEDULES; PROVIDING GRANTEE PERSONNEL; PROVIDING FOR SPILLAGE AND LITTER; PROVIDING FOR STORMS AND OTHER EMERGENCIES; PROVIDING FOR NONDISCRIMINATION; PROVIDING RATES AND CHARGES; PROVIDING FOR COMPLAINTS; PROVIDING MONITORING AND PERFORMANCE AND COMPLIANCE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; PROVIDING ENFORCEMENT; AND PROVIDING ATTORNEYS' FEES.**

**WHEREAS**, the Board of County Commissioners of Liberty County finds it in the public interest to ensure that all residents within its unincorporated limits are adequately provided with continued high-quality refuse collection and disposal service; and

**WHEREAS**, the Board of County Commissioners of Liberty County finds it in the public interest to retain regulatory authority over refuse collection and disposal, to the extent allowed by law, because of the overriding public health, safety, and welfare considerations associated with the provisions of this service; and

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**WHEREAS**, the Board of County Commissioners of Liberty County finds it in the public interest to ensure that high-quality refuse collection and disposal services are maintained through responsive complaint handling procedures; and

**WHEREAS**, the Board of County Commissioners of Liberty County finds that an exclusive franchise is the best and most effective means of assuring that the above-described interests of the County are promoted; and

**NOW, THEREFORE, IT IS ORDAINED** by the Board of County Commissioners of Liberty County, Florida, as follows:

**SECTION 1.** This Ordinance is adopted pursuant to Chapter 125, Florida Statutes.

**SECTION 2. DEFINITIONS.**

- A. "Commercial establishments" shall mean any public or private place, building, enterprise devoted in whole or in part to business purposes whether for profit or not-for-profit; except where such place, building, or enterprise constitutes a single family residence or multiple dwelling of four (4) units or less. Condominiums, patiohouses, and similar facilities where the individual units are privately owned and used for residential purpose, are not commercial establishments within this definition, unless bulk collection is used.
- B. "Commercial container" shall mean any one or more of the following: a ninety (90) gallon wheeled container (if less than four cubic yards per week are generated), a six (6) cubic yard container, or a four (4) cubic yard container, all provided and maintained by Grantee.
- C. "Commercial rubbish and trash" shall mean combustibles such as paper, wood, and yard trimmings, and non-combustibles such as metal, plastic, glass, stone, and dirt, except "hazardous waste."
- D. "Commercial solid waste" shall mean garbage, rubbish and trash, resulting from the normal activities of establishments utilizing commercial containers.

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- E. "Garbage" shall mean materials resulting from preparation, cooking and serving of food, market wastes, trimmings and other discharged matter from meat or produce, including packaging materials and containers and other refuse as defined by the Grantor, and including rubbish, or as otherwise defined in F.S. Section 403.703, as currently enacted.
- F. "Grantee" shall mean Waste Management of Bay County, a division of Waste Management, Inc. of Florida, who is hereby granted this franchise and hereby undertakes to perform each and every obligation assigned herein and hereby agreed to.
- G. "Grantor" or "County" shall mean Liberty County, Florida.
- H. "Hazardous materials" shall mean garbage, rubbish, trash, or wastes that are hazardous by reason of pathological, explosive, radiological, or toxic characteristics, and shall include all materials classified as "hazardous" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 1002, as amended, or regulated as toxic under the Toxic Substances Control Act, 15 U.S.C. Section 2601, as amended, or under F.S. Section 403.703(23), as it currently exists or may be amended; this franchise is not for the collection of hazardous materials and Grantee is not required to collect same.
- I. "Multifamily residence" shall mean multiple dwelling units of four (4) units or more.
- J. "Residence" shall mean and include a detached single family structure designed for occupancy by one (1) person or by one (1) family. Each mobile home and trailer shall be deemed a "residence", and each pad space for such mobile home or trailer shall be deemed a single family structure. Each townhouse shall be deemed a single family structure.
- K. "Rubbish" shall mean solid waste or refuse (excluding garbage and

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bulky items consisting of both combustible and noncombustible trash) such as paper, cardboard, tin cans, yard clippings, wood, glass, and similar materials.

- L. "Solid Waste" shall mean and include garbage, rubbish, trash and bulky material, but shall not include hazardous waste.
- M. "Standard residential container" shall mean the ninety (90) gallon portable container to be provided by Grantee and approved by Grantor.

**SECTION 3. GRANTING OF FRANCHISE.**

All solid waste generated by residences and commercial establishments within the un-incorporated areas of Liberty County, Florida, shall be collected, and disposed of by the Grantee. Grantee is hereby granted an exclusive franchise, including every right and privilege appertaining thereto, to operate and maintain a solid waste collection and removal service in, upon, over, and across the present and future streets, alleys, bridges, easements, and other public places within the limits of this franchise for the purpose of collecting and disposing of the solid waste generated by the citizens, residents, inhabitants, business enterprises, and other entities therein. Grantee shall be required (subject to the provisions of this Ordinance) to provide the collection service described herein to any producer of non-hazardous solid waste located within the franchise area.

**SECTION 4. LIMITS OF FRANCHISE.**

This franchise covers the unincorporated areas of Liberty County, Florida. Grantee agrees that the limits of the franchise are subject to expansion or reduction by annexation and contracting of municipal boundaries and that Grantee has no vested right by virtue of this Ordinance in a specific area, except as allowed by law.

**SECTION 5. RESIDENCES / COMMERCIAL ESTABLISHMENTS:**

All residences and commercial establishments are required to use the services set forth in this Ordinance. Should a residence or commercial establishment be rented, the

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owner and tenant shall be jointly and severally liable for the fees set forth in this Ordinance or any amendments thereof.

**SECTION 6. TERM.**

The franchise shall extend from January 1, 2000 to January 1, 2005, unless sooner terminated by reason of a breach of the terms hereof by the Grantee or the failure of the Grantee to provide effective and efficient service. The County shall have the option to renew this franchise for an additional two (2) five (5) year terms. The County shall exercise its option by informing the Grantee, in writing, of its election by certified mail, return receipt requested, at least ninety (90) days before the expiration of the current term.

**SECTION 7. ASSIGNMENT.**

This Franchise Agreement and the rights expressed herein granted to the Grantee shall not be assigned by Grantee except with the express written approval by the County, which approval shall not be unreasonably withheld.

In the event of such assignment, Grantee shall cause its assignee to execute and deliver to the County an Agreement of Acceptance, subject to the approval of the County evidencing that such assignee accepts the assignment subject to any and all the terms, conditions and limitations imposed hereby, and which acceptance shall include an affirmative statement evidencing such assignee's intent to fulfill the obligations imposed upon Grantee. Grantee shall guarantee the performance of its assignee and such assignee and such assignment shall always be with full recourse against Grantee by Grantor.

A transfer of more than fifty-one percent (51%) of the issued or outstanding stock of Grantee shall constitute an assignment for the purpose of this section. Likewise, any transfer of the voting rights attendant to more than fifty-one percent (51%) of the issued or outstanding stock of Grantee shall constitute an assignment for the purpose hereof.

**SECTION 8. BANKRUPTCY OR INSOLVENCY.**

If the Grantee becomes insolvent, or if the Grantee files a petition of voluntary or

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involuntary bankruptcy, or if Grantee is declared bankrupt, this franchise shall terminate no later than the date of filing of the bankruptcy petition or the declaration of bankruptcy.

**SECTION 9. DEFAULT.**

Subject to Section 17, in the event Grantee fails to comply in any substantial respect with any of the provisions of this Ordinance, said failure shall be grounds for a forfeiture of this franchise, but no such forfeiture shall take effect until Grantor has served upon the Grantee written notice of default which notice shall set forth the nature and extent thereof. Grantee shall have fifteen (15) days following the receipt of written notice of default to correct the same and regain compliance with this franchise.

In the event the noticed deficiencies are not corrected within such fifteen (15) day period, County shall have the right to cancel and terminate this franchise in whole or in part, in addition to its other available remedies at law or equity.

If Grantee protests the reasonableness or propriety of Grantor's declaration, said protest shall be served upon the Grantor in writing within ten (10) days following receipt by the Grantee of the Grantor's notice. If the Grantee serves a protest as aforesaid, the parties will promptly meet and attempt in good faith to resolve the subject dispute between themselves over the next thirty (30) days, prior to any further action with respect to such alleged default. During such period, the franchise shall remain in full force and effect pursuant to Section 16.

Each of the notices required above shall be mailed, postage prepaid, certified mail, return receipt requested, and shall be mailed to the following addresses:

If to Grantee:  
Waste Management Office  
Southern area office  
Attention: David Green  
2410 Paces Ferry Road  
Atlanta, GA 30399

With a copy to:  
Richard W. Payne  
6319 E. HWY 22  
Panama City, FL 32404

If to County:  
Chairman of the Board  
Of County Commissioners  
Post Office Box 399  
Bristol, FL 32321

With a copy to:  
James C. Conner, Jr., Esq.  
Post Office Box 905  
Bristol, FL 32321

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The failure of the Grantor at any time to require performance by the Grantee of any provision hereof shall not affect the right of the Grantor thereafter to enforce same; nor shall waiver by the Grantor of any breach of any provision hereof be taken or held to be a waiver of any such succeeding breach of such provision or as a waiver of any provision itself.

**SECTION 10. RIGHT OF FIRST REFUSAL.**

In the event Grantee shall at any time during the term of this Ordinance desires to sell the collection company service then existing and to assign this franchise to the Purchaser, and shall have received a bona fide offer from any other person, firm, corporation, or from any other municipal corporation or county, authority or political subdivision of the State of Florida satisfactory to Grantee to purchase the same, the Grantee shall, within ninety (90) days after receipt of said bona fide offer, advise the Grantor, in writing, of the purchase price and other terms and provisions of such offer, and the Grantor shall for a term of thirty (30) days after receiving such notice, have the option to purchase the disposal service from Grantee upon the same terms and conditions as are set forth in said offer. In the event the Grantor shall fail or refuse to exercise the rights and option granted to it by this section within the time limit set forth above, Grantee shall have the right to sell the collection company service to the prospective purchaser thereof. In the event the grantor does not exercise this option, then at the option of Grantor, this Ordinance may be rescinded as provided by law and Grantor will have no further obligations to the Grantee or the Purchaser.

**SECTION 11. RESTORATION.**

The Grantee agrees to repair all property, public or private, altered or damaged by it, its agents or employees in the performance of its duties herein in as good or better condition as it was before being damaged or altered. The Grantee is not responsible for damage to roads which occur in the normal operation of business.

**SECTION 12. COMPLIANCE WITH LAW.**

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Grantee shall conduct operations under its agreement in compliance with all applicable law, including state, federal, and county ordinance and regulation.

**SECTION 13. LIABILITY INSURANCE; WORKERS COMPENSATION.**

Grantee shall carry public liability insurance to the extent of Five Hundred Thousand Dollars (\$500,000.00) for the death of or injury to person and property, and comprehensive motor vehicle liability insurance to the extent of Five Hundred Thousand Dollars (\$500,000.00) upon each of the trucks or other vehicles used to carry out the work called for in this franchise, umbrella liability including the above, in the amount of a minimum of One Million Dollars (\$1,000,000.00), to protect itself, its agents, and its employees from claims for damages for personal injury, including wrongful and accidental death and property damage which may arise from operations performed by itself or its employees, such insurance expressly to protect both the Grantor and the Grantee. A certificate showing that the Grantee has in force and effect the aforesaid insurance shall be filed with the Grantor within ten (10) days from the execution of the franchise agreement, and yearly thereafter at least thirty (30) days prior to the date of the expiration of said policies of insurance for each year of said franchise. The aforesaid insurance shall be of such form and written by such companies as are approved by the Grantor and also shall contain an endorsement obligating the insurance company to furnish the Grantor thirty (30) days notice in advance of the cancellation of the insurance. Said policies of insurance shall name Grantor as additional insured. Grantee shall carry Workers Compensation insurance on all its employees and show proof of insurance and payment of premiums thereon to the Grantor, as requested. All such Workers Compensation policies shall provide for notice by the insurer to the Grantor at least sixty (60) days prior to any termination, revocation, or modification thereof.

**SECTION 14. INDEMNIFICATION / HOLD HARMLESS.**

Each of the parties to this Agreement agrees that the County, its commissioners, officers, agents, and employees shall not be liable to anyone for loss, damage, or injury to or sustained by persons or property arising, occurring, or resulting from the exercise by



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Grantee of the rights or privileges hereby granted or in the maintenance of Grantee's operations hereunder or the doing of any work of conducting any business herein authorized, and Grantee shall hold and save the County harmless from and against, and shall indemnify them against, any and all loss, damage, and injury sustained by them, or any of them, and any and all liability for loss, damage, or injury sustained by persons or property by reason of any act, omission, or negligence of Grantee, its agents, employees, servants, and the acts, negligence, or failures of Grantee or any of the Grantee's agents, servants, or employees to comply with the laws of the State of Florida or any valid ordinance, rule, or regulation relative to the subject matter hereof, and by reason of Grantee's use of the public thoroughfares of the County, and for this purpose Grantee shall defend, at Grantee's own cost and expense, any claims that might be made or any suits that might be brought against the County, its commissioners, officers, agents, employees, or otherwise, in connection therewith and shall pay all costs and expenses of such protection and defense, including reasonable attorney's fees, and all valid judgments obtained in connection therewith.

**SECTION 15. PERFORMANCE BOND.**

Grantee shall furnish to the Grantor a performance bond, in form approved by Grantor, for the faithful performance of this agreement and all its obligations arising hereunder in the amount of Two Hundred Thousand Dollars (\$200,000.00). Said bond shall be executed by a surety company approved by Grantor and licensed to do business in Florida.

**SECTION 16. OPERATIONS DURING DISPUTES.**

In the event that a dispute arises between the Grantor and the Grantee, or any other interested party in any way relating to this contract, performance or compensation hereunder, the Grantee shall continue to render service in full compliance with all terms and conditions of this contract regardless of the nature of the dispute.

Grantee expressly recognizes the paramount right and duty of Grantor to provide adequate waste collection and disposal service as necessary governmental functions, and

further agrees, in consideration for the execution of this franchise, that in the event of a dispute, said Grantee will neither stop service, unless requested in writing by Grantor, not seek injunctive relief in any court, but will either negotiate for an adjustment on the matter in dispute, or present the matter to a court of competent jurisdiction in an appropriate suit instituted by Grantee. Should the Grantee decline to or does not continue its service for any reason, the Grantor shall be entitled to take such action as shall be necessary (in Grantor's sole discretion) to effect a continuation of service, and all cost of same in excess of the amount that would have been paid to Grantee, shall be immediately recoverable from Grantee and/or its surety.

**SECTION 17. STANDARD OF PERFORMANCE.**

A. If the Grantee fails to collect materials herein specified for a period in excess of five (5) consecutive scheduled work days, the Grantor may proceed as follows (provided such failure is not due to war, insurrection, riot, act of God, or other cause beyond the Grantee's control):

1. At its option, after seven (7) days written notice to the Grantee as provided hereinafter, take over and operate any or all of the Grantee's equipment used in the performance of this franchise.
2. Use and operate same itself until such matter is resolved and the Grantee is again able to carry out its operation under this franchise. Any and all operating expenses incurred by the Grantor in so doing may be charged to the Grantee.

B. During such period, the liability of the Grantor to the Grantee for loss or damage to such equipment so used shall be that of a bailee for hire, ordinary wear and tear being specifically exempt from such liability. The liability of the Grantee to third parties shall continue and all claims or demands arising out of the operation of the collection service shall be directed solely to the Grantee, and Grantor shall be treated as an agent of Grantee for purpose of determining liability.

**SECTION 18. COLLECTION SERVICES AND OPERATIONS.**

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A. **Frequency of Waste Collection.** Grantee shall pick up, from the curbside nearest to each residence or business, on the regularly scheduled day, all garbage and residential waste at least once a week. If a residence is located more than two hundred (200) feet from any public street or private street open and accessible to Grantee, the pickup will be made at the residence or as close to the residence as Grantee can safely get over open and accessible streets and driveways. Pickups shall not be reduced by holidays, but pickups normally scheduled to be made on a holiday may be rescheduled upon approval by the Grantor after at least five (5) days prior notification to the affected residence or business by publication or other means approved by Grantor. Said publication shall be at the expense of Grantee.

Grantee will work with the Grantor in the establishment of a collection program for the part-time residents of the County under such conditions as the Grantor and Grantee shall agree, including, by way of example and not limitation, the obligation of the resident to advise the Grantor of the start-up and cut-off dates.

B. **Quality.** Grantee shall be required to pick up all garbage and rubbish of volume provided same is placed in the provided waste container or placed in boxes, bags, or containers in the immediate area of the provided waste container.

C. **Waste Container.** Grantee shall make collections with a minimum of noise and disturbance. Waste containers shall be handled carefully by the Grantee and shall be thoroughly emptied and left where they were found standing upright at the curbside. Waste may be transferred from the customers containers (supplied by Grantee) into tubs, cans, hampers, or other containers used by the Grantee in carrying waste to collection trucks. This work shall be done in a sanitary manner. Any waste spilled by the Grantee shall be picked up and removed by Grantee.

D. **Waste Containers.**

1. Containers shall be provided, at no charge, by Grantee;
2. **Hazardous Materials.** Grantee shall not be responsible for the collection of hazardous materials;
3. **Location of Waste for Collection.** All persons and establishments receiving service pursuant to this contract shall place waste

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- containers, disposal containers and other items at the curbside, secured from disturbance by animals, unless Grantee has agreed to provide a special collection at another location; if a residence is located more than two hundred (200) feet from any public street or private street and accessible to Grantee, the pickup will be made at the residence or as close to the residence as Grantee can safely get over open and accessible streets and driveways;
4. Grantee shall be required to provide at its expense (and shall retain all ownership rights in) the ninety (90) gallon container to each customer, said container to be of a manufacture and design approved by Grantor. Each customer shall be entitled to possession of the container for so long as the customer receives the services provided herein. The risk of loss of or damage to the container shall lie with the Grantee, which shall have the continuing responsibility throughout the term of service to provide at least one such container for each customer. At the option of the customer, the Grantee shall be required to provide a larger container, subject to the rates and other provisions of Section 27 hereof;
  5. Handicap and elderly residential pickup shall be at the rear of the house or as otherwise mutually agreed. All other residential pickup shall be picked up immediately adjacent (within five (5) feet) to a public street or to a private street accessible and open to Grantee; provided, however, that if a residence is located more than two hundred (200) feet from any such public or private street, the pickup will be made at the residence or as close to the residence as Grantee can safely get over open and accessible streets and driveways. All questions of accessibility shall be resolved by Grantee, but all such decisions shall be reasonable;
  6. Grantee shall be required to place refuse containers right side up with lids placed secured on the same after collection of the contents.

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Magazines, newspapers, etc., will be collected curbside or securely tied in bundles or placed in cardboard boxes or other containers for pickup; and,

7. Grantee shall provide residential compaction type leak proof vehicles. Grantee shall provide to the County a list of the year and model of each residential vehicle to be used upon request. Grantor shall have adequate reserve collection vehicles to service the residential units. Vehicles shall be inspected and approved by the State of Florida, Department of Transportation as required, and the County, and the County's approval shall not be unreasonably withheld.

**SECTION 19. OFFICE AND COLLECTION HOURS.**

A. The Grantee's office shall remain open Monday through Friday from 9:00 AM to 6:00 PM Eastern Time for the purpose of handling complaints; and for that purpose, there shall be maintained one (1) toll free telephone line and a responsible person in charge during the hours specified above. These requirements do not apply on legal holidays.

B. Collection shall normally be made in residential areas no earlier than 6:00 AM, and no later than 6:00 PM, with no service on Sunday, except in time of emergency or to maintain schedules due to holidays. If the Grantee has an equipment breakdown, it shall be temporarily relieved from collection for the route being served by such equipment experiencing operating difficulties, provided that such route shall be fully collected that day by the Grantee with substitute equipment.

**SECTION 20. COLLECTION EQUIPMENT.**

The Grantee shall have on hand at all times sufficient equipment in good working order to permit Grantee to perform its duties hereunder fully, adequately, and efficiently. Equipment shall be purchased from nationally known and recognized manufacturers of garbage collection and disposal equipment. Garbage collection equipment shall be kept clean, sanitary, neat in appearance, and in good repair at all times. The Grantee shall at

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all times have available to it reserve equipment which can be put into service and operation within four (4) hours of any breakdown. Such reserve equipment shall substantially correspond, in size and capability, to the equipment normally used by the Grantee to perform its duties hereunder.

**SECTION 21. DISPOSAL.**

All garbage and solid waste shall be hauled to a duly permitted disposal facility for treatment or disposal. The Grantor reserves the right to approve or disapprove additional sites, taking into account all governmental regulations, routes within the franchise area, and the rules and regulations of the governmental body having jurisdiction over said sites or facilities.

**SECTION 22. ROUTES AND SCHEDULES.**

The Grantee shall periodically provide the Grantor with schedules of residential collection routes and keep such information current at all times. In the event of changes in routes or schedules that will alter the day of pickup, Grantee shall notify each customer by placing an advertisement prominently displayed in a local newspaper on at least two (2) occasions, the latter being at least one (1) week prior to the change. All such changes in routes or schedules will also be immediately communicated to the Grantor when determined by the Grantee.

**SECTION 23. GRANTEE PERSONNEL.**

A. Grantee shall assign a qualified person to be in charge of operations under this franchise and shall give the name of said person to Grantor.

B. Grantor has the right to require that Grantee's collection employees wear clean uniforms bearing Grantee's company name;

C. Each person employed to operate a vehicle shall, at all times, carry a valid Florida driving license for the type of vehicle being driven;

D. Grantor may request the removal of any employee of Grantee who violates any provision hereof or who is found to have been wanton, negligent, or discourteous in the

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performance of duties; and,

E. Wages of all employees of Grantee shall equal or exceed the minimum hourly wages for each employee established by local, state, or federal law.

**SECTION 24. SPILLAGE AND LITTER.**

The Grantee shall not litter premises in the process of making collections, but shall not be required to collect any waste material that has not been placed in approved containers or in a manner herein provided. During hauling, all solid waste shall be contained, tied, or enclosed so that leaking, spilling, or blowing are prevented. In the event of spillage by the Grantee, the Grantee shall promptly clean up the litter.

**SECTION 25. STORMS AND OTHER EMERGENCIES.**

In case of an unusually severe storm or disruption caused by other severe emergencies not caused by Grantee, Grantor may grant Grantee reasonable variance from regular schedules. As soon as practicable after such storm or other emergency, Grantee shall inform the Grantor of the estimated time required before regular schedules and routes can be resumed and, upon request by Grantor, Grantee shall provide notice to premises in the service area. In event of a storm or emergency requiring mass cleanup operations, Grantee shall, upon direction of Grantor, participate in said cleanup to the extent directed by the Grantor. Grantee shall be compensated by the Grantor in the amount of actual documented costs, and shall be excused from conducting regular services if approved by Grantor. Any expenses incurred or revenue received under this provision shall not be included or considered in rate base calculations.

**SECTION 26. NON-DISCRIMINATION PROVISION.**

The Grantee agrees that it has adopted and will maintain and enforce a policy of non-discrimination on the basis of race, color, religion, sex, age, handicap, disability, or national origin. Said non-discrimination policy shall apply to employment practices of the Grantee and the provision of services. The Grantee agrees that upon written request, it will permit reasonable access to its records of employment, employment advertisements,

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application forms, and other pertinent data and records by Grantor for the purposes of investigation to ascertain compliance with the non-discrimination provisions of this franchise.

**SECTION 27. RATES AND CHARGES.**

A. **Initial Rates and Charges** by Grantor for services to be performed hereunder are as follows:

1. Residential service shall be at the per month charge set forth in Exhibit "A", for a single ninety (90) gallon curbside container;
2. Commercial establishments shall be billed at the rates set forth in Exhibit "A";
3. The rates set forth in Exhibit "A", may be changed by resolution of the Grantor;
4. The waste collection fee provided for herein shall be the responsibility of the owner of the land for which it is charged, or if being rented, the owner and tenant shall be jointly and severally liable; shall constitute a debt owed to Liberty County; and shall bear interest at the rate of twelve percent (12%) per annum after the due date until paid. Fees shall be applicable as of January 9, 2000.

B. **Service and Charges by Grantee.**

1. The Grantee is to provide necessary service to all of County owned facilities, except for public housing developments, located within unincorporated areas at no charge to the Grantor;
2. Should the applicable disposal tipping fee be increased or decreased, the rates provided for herein shall likewise be increased or decreased in an amount necessary to defray or rebate any actual cost to or savings by Grantee, said amount to be negotiated by the parties;
3. Beginning with the first month of the fourth (4th) calendar year, the rates charged by Grantee shall be increased or decreased based on the percentage change in the Consumer Price Index (CPI), the



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percentage increase or decrease shall be the net change for the twelve (12) month period ending with the ninth (9<sup>th</sup>) full month of the prior calendar year.

4. Grantee shall provide documentation supporting such CPI adjustment to the County annually at the time of such CPI adjustment.
5. The charge to Grantor by Grantee to perform and render all services under this Ordinance shall be as follows.

<u>YEAR</u>	<u>AMOUNT PER MONTH</u>
1/1/2000 - 12/31/2000	\$21,457.00
1/1/2001 - 12/31/2001	\$23,957.00
1/1/2002 - 12/31/2002	\$25,485.00
1/1/2003 - 12/31/2003	CPI
1/1/2004 - 12/31/2004	CPI

Amount to be paid during any renewal periods to be negotiated by the parties.

6. The above amounts may be adjusted from time to time under the terms of this Ordinance in the event of a substantial increase in the residential units being served or in the commercial volume being collected by Grantee or upon written agreement of the Grantor and Grantee. For the purposes of this section, the phrase "substantial increase" shall be defined in the residential setting as an increase in the average residential units served by Grantee during any calendar year of the franchise by more than 10% and in the commercial setting as an increase in the average volume of tons being serviced by the Grantee during any calendar year of the franchise by more than 10%. The Grantee shall notify the County upon the occurrence of any such substantial increase and the parties shall negotiate and implement a rate adjustment within 30 days of such notice and documentation from Grantee. The rate adjustment shall be calculated by multiplying that unit or tonnage increase by the per unit or ton amount of the current

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residential or commercial annual fee determined by dividing the preceding calendar year's unit count or tonnage collected into the then current annual fee.

**SECTION 28. COMPLAINTS.**

All complaints shall be resolved by Grantee within twenty-four (24) hours. Grantee shall supply Grantor with copies of all complaints, on a form approved by Grantor, and indicate the disposition of each. Such records shall be available for inspection by Grantor at all times during business hours specified herein. The form shall indicate the day and hour on which the complaint was received, and the day and hour on which it was resolved. When a complaint is received on the day preceding a holiday or on a Saturday, it shall be serviced on the next working day. The Grantee shall establish procedures acceptable to Grantor to insure that all customers are notified as to the complaint procedure.

**SECTION 29. MONITORING AND PERFORMANCE AND COMPLIANCE.**

In order to fully implement the provisions of this franchise, a panel for the review of the quality of services provided for in this contract may be created to consist of three (3) members: one (1) member representing the Grantor; one (1) member representing the Grantee; and a third (3<sup>rd</sup>) independent member chosen by the previously named two (2) members. It shall be the function of this committee to review, report, and make recommendations to the Grantor regarding the quality of services provided for herein. For the purpose of this function, "service" shall be defined as the performance of the duties, tasks, and obligations as are generally and reasonably regarded as incident to the safe and satisfactory discharge of responsibilities in the sanitation industry and as required by this ordinance.

**SECTION 30. CONFLICT.**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

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**SECTION 31. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance; except that where Grantor finds that the invalidated provision is essential to the franchise as a whole, Grantor may terminate said franchise.

**SECTION 32. EFFECTIVE DATE.**

This Ordinance shall take effect as provided by law.

**SECTION 33. ENFORCEMENT.**

The Clerk of the Circuit Court of Liberty County, Florida, shall have the authority and the responsibility for the administration of this Ordinance.

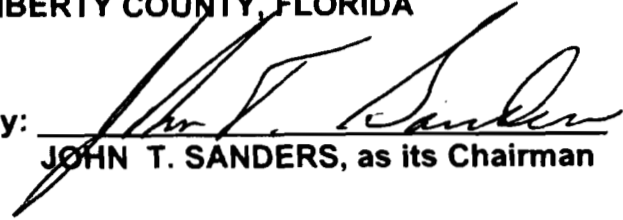
**SECTION 34. ATTORNEYS' FEES AND COSTS.**

In any action to enforce any of the terms of this Ordinance, the prevailing party shall be entitled to recover any and all reasonable attorneys' fees and costs, including fees and costs for appeal.

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The foregoing Ordinance was adopted by a vote of \_\_\_\_\_ to \_\_\_\_\_ by the Board of County Commissioners, Liberty County, Florida, after due notice and publication, upon motion, second, and discussion, in the regular meeting held on \_\_\_\_\_.

**BOARD OF COUNTY COMMISSIONERS  
LIBERTY COUNTY, FLORIDA**

By:   
JOHN T. SANDERS, as its Chairman

**ATTEST:**

By:   
VERNON ROSS,  
Clerk of Circuit Court

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**ACCEPTANCE**

Waste Management of Bay County, a division of Waste Management, Inc. of Florida, hereby accepts the terms and conditions of Ordinance 00-01 of Liberty County, Florida, and agrees to be bound and to abide by the terms and conditions set forth therein.

DATED this 13 day of MARCH, 2000.

WITNESSES:

*Olivia J. Whitefield*  
OLIVIA J. WHITEFIELD

By: *Richard W. Payne*  
As Its: DISTRICT MGR.

STATE OF FLORIDA  
COUNTY OF LIBERTY

The foregoing instrument was acknowledged before me on this 13<sup>th</sup> day of MARCH, 2000, by RICHARD W. PAYNE ~~OLIVIA J. WHITEFIELD~~, of WASTE MANAGEMENT OF BAY COUNTY, on behalf of the corporation, and who did / did not take an oath.

(SEAL)

*Barbara A. Hunt*  
NOTARY PUBLIC  
State of Florida at Large  
Affiant Personally Known To Me: YES / NO  
Affiant Produced Identification: YES / NO  
Type of I.D. Produced: \_\_\_\_\_



Barbara A. Hunt  
MY COMMISSION # CC564850 EXPIRES  
September 3, 2000  
BONDED THRU TROY FAIR INSURANCE, INC.

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**RATES TO BE CHARGED FOR RESIDENTIAL AND COMMERCIAL  
SERVICES BY LIBERTY COUNTY FLORIDA**

**RESIDENTIAL SERVICE FEE**

The initial residential service fee hereunder shall be:

**Ten and 50/100 Dollars (\$10.50) per residence, per month.**

**COMMERCIAL SERVICE FEE**

The initial commercial service fee hereunder shall be:

**Eleven Dollars (\$11.00) per month for each  
Six (6) cubic yard container**

**Seven and 70/100 Dollars (\$7.70) per month for each  
Four (4) cubic yard containers**

**Ten and 50/100 Dollars (\$10.50) per month for each  
Ninety (90) gallon container**

**EXHIBIT "A"**