#### ORDINANCE NO. 84-1

AN ORDINANCE RELATING TO HOLMES COUNTY, FLORIDA, TO ENCOURAGE ECONOMIC DEVELOPMENT IN THE COUNTY; ESTABLISHING AN EXEMPTION FROM CERTAIN AD VALOREM TAXATION FOR SEMINOLE ENTERPRISES, INC., d/b/a HARDEES OF BONIFAY, FOR CONSTRUCTION OF A NEW BUSINESS; PROVIDING THE AMOUNT OF REVENUE AVAILABLE FROM AD VALOREM TAX SOURCES FOR THE CURRENT FISCAL YEAR AND THE AMOUNT OF ESTIMATED REVENUE WHICH WOULD BE LOST BECAUSE OF THE EXEMPTION GRANTED TO SEMINOLE ENTERPRISES, INC., d/b/a HARDEES OF BONIFAY; PROVIDING AN EXPIRATION DATE OF THE EXEMPTION TEN YEARS FROM THE DATE OF ADOPTION OF THIS ORDINANCE; PROVIDING A FINDING THAT THE SEMINOLE ENTERPRISES, INC., d/b/a HARDEES OF BONIFAY MEETS THAT DEFINITION OF A NEW BUSINESS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY, FLORIDA:

#### ARTICLE I SHORT TITLE

This Ordinance shall be known as County Ordinance No. <u>84-1</u>, "Economic Development Ad Valorem Tax Exemption-Seminole Enterprises, Inc., d/b/a Hardees of Bonifay."

### ARTICLE 11 PROCEDURE

After consideration of the report of the Property Appraiser and in accordance with Florida Statute Chapters 125,163,192, 196 and 214, the Board grants and established an exemption from ad valorem taxation of one hundred percent (100%) of the assessed value of all added improvements to real property made by Seminole Enterprises, Inc., d/b/a Hardees of Bonifay, for construction of a new business on Highway 79 South, Bonifay, Florida. No exemption shall be granted on the land on which the improvements are made.

### ARTICLE 111 AD VALOREM TAX REVENUES

Total revenues available to the County for the current fiscal year from ad valorem tax sources on the new business are: \$\_\_\_\_\_\_\_. Revenues to be lost for the current fiscal year by the granting of this exemption are \$1,487.75 and total estimated revenues to be lost over the 10 year period covered by this exemption are \$14,877.50.

## ARTICLE IV EXPIRATION DATE

The Economic Development Ad Valorem Tax Exemption granted to Seminole Enterprises, Inc., d/b/a Hardees of Bonifay, a new business, shall be for ten years from the date of Board adoption of this Ordinance.

#### ARTICLE V FINDING

The Board of County Commissioners of Holmes County, Florida, finds that Seminole Enterprises, Inc., d/b/a Hardees of Bonifay, is a new business as defined in Florida Stature 196.012 (14).

### ARTICLE VI SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase, or portion of this Ordinance is for any reason found void, invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent, and severable provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

# ARTICLE VII EFFECTIVE DATE

This Ordinance shall take effect upon receipt of notice of its filing from the Secretary of State.

ENACTED in Regular Session the 19th day of March

Board of County Commissioners of Holmes County, Florida

ATTEST:

(SEAL)

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November 28, 1995

Board of County Commissioners Holmes County, Florida P.O.Box 397 Bonifay, Florida 32425

RE: City Environmental vs. Holmes County-Federal Court Case

Dear Commissioners:

The Federal Court for the Northern District of Florida has entered a Summary Judgment declaring that Holmes County Ordinances Nos. 83-06, 87-01 and 89-01 are unconstitutional in that they violate the Commerce Clause of the Federal Constitution.

This ruling was not unexpected because the Federal Circuit Court of Appeals in Atlanta had previously entered a ruling right on point, saying that it was unlawful to prohibit the flow of solid waste across state and county lines.

Our only argument was that the Plaintiff lacked judicial standing to attack the ordinances because Plaintiff did not have a landfill in Holmes County, and that Holmes County had made no threat to enforce the ordinances against Plaintiff. This argument was seriously weakened when two County Commissioners testified in their depositions that they would seek to enforce the ordinances against the Plaintiff.

This ruling has no bearing on the outcome of the other two pending cases, and no bearing on whether or not City Environmental gets the right to operate a landfill in Holmes County.

Yours very truly,

GH/rh

cc: Cody Taylor

All Commissioners