

HOLMES COUNTY ORDINANCE NUMBER 86-03

AN ORDINANCE GRANTING AN EXCLUSIVE FRANCHISE FOR THE COLLECTION AND DISPOSAL OF SOLID WASTE WITHIN THE UNINCORPORATED AREAS OF HOLMES COUNTY, FLORIDA, TO ARGUS SERVICES, INC.; REGULATING THE METHOD AND SCHEDULE OF THE COLLECTION; ESTABLISHING AN INITIAL RATE WHICH MAY BE CHARGED CUSTOMERS AND REGULATING ANY INCREASES IN RATES; GRANDFATHERING IN THOSE CONTRACT SOLID WASTE COLLECTORS PRESENTLY OPERATING IN HOLMES COUNTY AS TO THEIR PRESENT CUSTOMERS ONLY; PROVIDING AN EFFECTIVE DATE.

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

Section 1. Authority. This ordinance is enacted pursuant to the provisions of Florida Statutes Section 125.01 and other applicable Florida laws.

Section 2. Granting of Franchise. An Exclusive Franchise for the collection and disposal of solid waste within the unincorporated areas of Holmes County, Florida, is hereby granted to ARGUS SERVICES, INC. A copy of the franchise agreement is attached hereto and made a part hereof by reference, said attachment being labeled Exhibit A.

Section 3. Grandfather Clause. Those contract solid waste collectors which are presently in business within Holmes County, Florida, shall have a non-exclusive right to continue to service those customers which they presently have under contract, but they shall not add any new or additional customers after the effective date of this ordinance.

Section 4. Effective Date. This ordinance shall become effective when enacted and duly filed with the Secretary of State.

ENACTED IN REGULAR SESSION this _____ day of _____, 1986.

BOARD OF COUNTY COMMISSIONERS OF
HOLMES COUNTY, FLORIDA,

ATTEST: _____ (SEAL)
Clerk

BY; _____
Chairman

FRANCHISE FOR THE COLLECTION

AND

DISPOSAL OF SOLID WASTE

BETWEEN

HOLMES COUNTY BOARD OF COMMISSIONERS

AND

Argus Services, Inc.

FRANCHISE FOR THE COLLECTION
AND
DISPOSAL OF SOLID WASTE

THIS AGREEMENT, made and entered into this 19th day of May, 1986, between HOLMES County, a political subdivision of the State of Florida, herein-after referred to as "County", and Argus Services Inc. hereinafter referred to as "Collector" or "Contractor", WITNESSETH:

WHEREAS, after a public hearing and receipt of a proper application to obtain a Franchise, a regular meeting of the Board of County Commissioners of Holmes County, Florida, was held at 10:30 a.m. on the 19th day of May 1986, in the Holmes County Courthouse, Bonifay, Florida, in which the County granted an extension of franchise upon the terms and conditions hereinafter specified, the County as granted to Collector an exclusive Franchise for residential service collection and disposal of solid waste, pursuant to Chapter 57-1313, Laws of Florida,

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. TERM. Unless otherwise earlier terminated, as provided herein, this Franchise for the collection and disposal of solid waste within the County of Holmes shall be for the term of ten (10) years, beginning the 19th day of May 1986, provided, however, that this agreement may be renewed or renegotiated for a period of ten (10) years, upon written request of the Collector, upon such terms and conditions as the parties may mutually agree, or, upon failure of the parties in good faith to agree, upon the same terms and conditions, except option to renew, as this Franchise. Notice of desire to renew this agreement shall be submitted by registered mail by the Collector at least ninety (90) days prior to the end of the term of this agreement.

2. SCOPE. This exclusive Franchise shall be solely for residential service and shall be applicable to the area within the limits of Holmes County, Florida, as per legal description set forth in Article II.

The County also hereby grants to the Collector the full power and authority to collect garbage and rubbish and to do any other necessary work incidental to the business of solid waste collection and disposal within the boundaries of the County described in the attachment hereto.

3. DISPOSAL FEES. The contracting parties hereby agree that in return for the County providing disposal facilities to the Collector, the Collector shall pay to the County a fee unit of solid waste delivered to the disposal site; payable on or before the 15th day of each month. Such fee to be determined by the Board, in accordance with applicable ordinance, as deemed necessary to support the landfill operation. Such fee charged by the County is to be considered as an operating expense of the Collector.

ARTICLE I. DEFINITIONS

A. BOARD MEANS Board of County Commissioners of Holmes County, Florida.

B. COLLECTOR shall mean any person, partnership, Company, Corporation, or any other entity contracting to provide waste collection and disposal services in the County as described in the Franchise.

C. GARBAGE means materials resulting from the preparation, cooking and serving of food; market wastes; trimmings and other discarded matter from meat or produce, including containers in which packaged, and such other refuse as may be defined by the Board.

D. RUBBISH means solid wastes or refuse, excluding garbage and bulky items consisting of both combustible and noncombustible trash, such as paper, cardboard, tin cans, plastics, yard clippings, wood, glass and similar materials.

E. REFUSE means all solid wastes, garbage and rubbish.

F. RESIDENTIAL WASTE means any combination of refuse usual to house-keeping and generated solely by residents in the ordinary course of residential occupancy of a premises, excluding major appliances, such as stoves and refrigerators, furniture, automobile bodies and parts, tires, household and yard appliances, and other bulky items not suitable for proper confinement in the garbage receptacle.

G. RESIDENTIAL PREMISES means every lot or parcel of land which is improved for occupancy as a single family residence, every single family condominium unit, and residential apartments and trailer parks for which mechanical pickup containers are not required by the County Refuse Collection Service Ordinance.

H. CURBSIDE means the area within five feet of the edge of the traveled portion of any public or private street affording reasonable access to waste collection vehicles, but only such portion thereof as lies on the roadway side of any drainage ditch.

I. SPECIAL SERVICE means an additional convenience or service to the customer which increases the cost of service and is not a service required to be provided pursuant to this Franchise.

J. CUSTOMER shall mean any person or persons, firm, corporation or association who shall place garbage or rubbish for pickup and disposal by the Collector.

K. RESIDENTIAL SERVICE shall mean collection and disposal of residential waste from residential premises.

L. BUNDLE means a package containing rubbish only, weighing not over fifty pounds and not exceeding four (4) feet in its longest dimension, securely tied with cord or rope of sufficient strength to permit lifting and carrying of the full weight thereof without spillage or leakage and placed for collection.

M. APARTMENTS AND TRAILER PARKS as used in this agreement shall include any building or buildings or trailer park containing five or more dwelling units on contiguous premises and operated as a single operation under the same ownership and management. In the case of any such apartment or trailer park operation containing less than five rental units, each unit shall be considered as a single family residence.

ARTICLE II. WASTE COLLECTION SERVICE AREA

The Contractor is authorized and required by this contract to provide certain waste collection services in the following described service area:

[See Attachment hereto marked "EXHIBIT A" and made a part hereof.]

ARTICLE III. COLLECTION OPERATIONS

A. FREQUENCY OF WASTE COLLECTION. The Collector shall pick up from the curbside adjacent to each residential premises in his franchise area on the regularly scheduled day (a) all garbage and residential wastes at least once a week, and (b) rubbish at least bi-weekly. Pickups shall not be reduced by holidays, but pickups normally scheduled to be made on a holiday may be rescheduled, upon approval by the Board, after at least five days prior notification to the affected residential premises by publication of a display ad in a newspaper with county circulation, as required by the Board.

B. QUANTITY. The Collector shall be required to pick up all garbage and rubbish not in excess of two (2) 20 gallon receptacles generated by a residential premise, provided same is placed in a waste receptacle. The Collector shall also be required to pick up rubbish from the curbside in an amount not exceeding one (1) cubic yard bi-weekly. For the guidance of the public; one (1) cubic yard is equivalent to six (6) plastic bags, 2 feet 6 inches x 3 feet, or to a bundle with dimension of 2 feet x 3 feet 6 inches x 4 feet.

C. WASTE COLLECTION. Collector shall make collections with a minimum of noise and disturbance to the householder. Waste receptacles shall be handled carefully by the Collector and shall be thoroughly emptied and then left where there were found, standing upright and with covers placed adjacent to the waste receptacle at the curbside. Waste may be transferred from the householders' containers into tubs, cans, hampers, or other containers used by the Collector in carrying waste to collection trucks. This work shall be done in a sanitary manner. Any waste spilled by the Collector shall be picked up immediately by the Collector's employees.

D. SPECIAL SERVICES. Services such as backdoor collection, below ground collection, removal of any refuse other than residential waste as defined herein, or additional pickups shall be subject to negotiations between the Collector and the owner or occupant of residential premises. Requests for pickups of large items such as furniture, trees, sod, lumber and other items not defined in this agreement as "Garbage" or "Rubbish" shall be considered as requests for special pickup services. Such special services shall not be covered by the fees and charges set out in this franchise, but shall be agreed upon by the parties requesting such service and the Collector. Charges for special services shall not be unreasonable or excessive.

E. WASTE RECEPTACLES

(1) Garbage and Rubbish. Garbage shall be placed for collection separately from rubbish and shall be placed in waste receptacles weighing not more than forty (40) pounds, when filled, and meeting the following additional standards:

- (a) A container of not more than twenty (20) gallons, nor less than ten (10) gallons which is:
- (1) Free from jagged and sharp edges;
- (2) Free from inside structures, such as inside bands or reinforcing angles, which would prevent free discharge of the contents;
- (3) Watertight and of

impervious material to protect the contents from flies, insects, rats, and other animals; (4) Provided with a tight fitting cover; and (5) equipped with cover handle and side bails; or

(b) Wet strength kraft paper bag of not more than four (4) cubic feet capacity having such characteristics, markings and method of securing as prescribed by regulation of the County, or

(c) A plastic bag having an inside circumference of at least forty (40) inches and not more than sixty and one-half (60 ½) inches and an inside length of at least twenty-two (22) inches but not more than thirty-seven and one-half (37 ½) inches, and having such characteristics, markings and method of securing as are prescribed by regulation of the County.

(2) Rubbish. Rubbish conducive to containerization shall be placed for collection in either a waste receptacle meeting the standard for garbage and rubbish collection or in a bundle. Other tree limbs or trimmings to be collected by the Contractor shall not exceed four (4) feet in length. Each receptacle, bundle, or other item shall weigh less than fifty (50) pounds. Rubbish shall be placed for collection separately from garbage. The Collector shall not be required to collect any rubbish which does not comply with the requirements in this subsection or which exceeds one (1) cubic yard per week. Leaves, straw, grass and the like must be in an approved container.

(3) Location of Residential Waste for Collection. All persons receiving residential service pursuant to this contract shall place waste receptacles, disposal containers and other items at the curbside, secured from disturbance by animals, unless the Collector has agreed to provide a special service collection at another location.

F. CUSTOMER RESTRICTIONS.

(1) Collector shall not be required to collect residential waste receptacles containing garbage or refuse not generated from the customer served.

(2) Collector shall have the right to terminate service to any customer violating any provision of the Holmes County Ordinance and amendments thereto.

G. REMOVAL OF IMPROPER RECEPTACLES. Any container used for the collection or storage of residential waste which fails to meet the standards prescribed by ordinance of the County shall be clearly marked by the Collector, specifying the manner in which the container fails to meet these requirements.

Any container which fails to meet these requirements and is so marked shall be removed from service by the party furnishing it. Upon failure of the party furnishing the container to remove it from service after written notice by the Collector, the Collector shall remove the container from service and destroy it.

ARTICLE IV. HOURS OF COLLECTION. The Collector shall provide residential waste collection services between the hours of 5:30 a.m. and 7:00 p.m., except to meet holiday or emergency demands or other exceptional circumstances as approved by the Board.

ARTICLE V. OFFICE HOURS OF COLLECTOR. The Collector shall maintain an office in Holmes County and shall keep the office open and the office telephone answered between the hours of 8:30 a.m. and 5:00 p.m. on weekdays, except to meet holiday or emergency demands as approved by the Board. The Collector shall have at all times a competent and reliable representative at the office authorized to act for it.

ARTICLE VI. INFORMATION AVAILABLE TO RESIDENTS. The Contractor shall make available to any resident at its place of business in the County upon the resident's request, any pertinent information regarding the service rendered. The Collector shall have on file for inspection upon request of the general public at each of its principal places of business the following:

- A. A copy of the franchise relating to the service area of the Contractor;
- B. A copy of any applicable County ordinances and Board rules and regulations;
- C. A map showing the area serviced by the Contractor, identifying collection routes;
- D. Schedule of collections for garbage and rubbish; and
- E. A legible notice placed in a conspicuous place in the office to the effect that a copy of the foregoing are kept there for inspection by the general public.

ARTICLE VII. CONDITION OF COLLECTION EQUIPMENT. Equipment used by a Contractor shall be maintained in such condition as to prevent any sanitary nuisance or safety hazard. Vehicles shall be washed thoroughly with suitable disinfectant and deodorant daily, and all vehicles shall be washed on the outside weekly. Collector shall maintain garaging and maintenance facilities for all

equipment in a condition and at a location acceptable to the County insofar as zoning, traffic, truck parking, and nuisance considerations are concerned, and shall maintain all trucks in a clean and sanitary condition. Each truck shall be kept well painted.

ARTICLE VIII. TRUCK IDENTIFICATION. All equipment used in the collection of waste by a Contractor shall be clearly identifiable with name of the Contractor, telephone number and vehicle number.

ARTICLE IX. STANDING VEHICLES. Waste collection vehicles used by a Collector shall not be allowed to stand unattended on any public or private street.

ARTICLE X. BLOCKING OF TRAFFIC. The Contractor's equipment shall be operated so as to minimize interference with vehicular or pedestrian traffic.

ARTICLE XI. LITTERING. Collection shall be made and the equipment operated and maintained by Collector in such a manner as to prevent the dropping or scattering of residential waste (solid or liquid) anywhere except in a lawful disposal site or transfer station. All waste spilled or scattered from vehicles shall be immediately picked up by the Collector.

ARTICLE XII. OTHER REFUSE. The Collector shall not be responsible for the collecting of discarded building material, brick, dirt, rock, plaster, lumber, metal or other like material originating from property preliminary to, during or subsequent to the construction of any building, alteration or additions to existing building of any type. The owner of the property or the contractor shall remove or cause such material to be removed to an approved disposal site. The franchise holder shall not be responsible for collecting industrial waste from factories, warehouses or laboratories, nor any establishment classified as, or engaged in industrial work; including such items as waste grease or oils from service stations or manufacturing plants, nor any toxic or other hazardous waste. However, the franchise holder may negotiate separate and individual contracts with such establishments.

ARTICLE XIII. CONDUCT OF PERSONNEL. The Collector shall see to it that his employees serve the public in a courteous, helpful and impartial manner. All contractor personnel in both field and office shall refrain from belligerent behavior and profanity. Correction of any such behavior and language shall be the responsibility of the Collector. Personnel shall make collection with as little noise and as little disturbance to the resident as possible. No employee

shall disturb or otherwise meddle with property that is impertinent to the proper execution of his duties. Care should be taken to prevent damage to property, including shrubs, flowers and other plants. Waste receptacles shall be carefully handled by the personnel and shall be thoroughly emptied and left at the premises where they are found, standing upright and with covers placed adjacent to the can at the curbside. This work shall be done in a sanitary manner and any waste spilled by the Collector shall be immediately picked up by the Collector. Personnel shall not be required to expose themselves to the danger of being bitten by vicious dogs in order to accomplish collection. In any case where the owner or tenants have such animals at large, the Contractor shall immediately notify the Board in writing of such condition and of his inability to make collection because of such condition.

The County shall have the right to demand the dismissal of any employee of the Collector who is wanton, negligent or discourteous, after a hearing at which the employee is given full and fair opportunity to present evidence to the Board.

ARTICLE XIV. FILING OF ROUTE LIST AND NOTICE OF CHANGES. The Collector shall file with the Board and keep current a list of routes for residential waste collection service, designating routes for residential waste except rubbish and routes for rubbish separately, together with a map of those routes, which list shall specify the days of pickup for residential waste except trash on each route and the days of pickup for trash on each route. Within five (5) days prior to the commencement of any change in service under this contract, the Contractor shall give proper and reasonable notice as is determined by the Board to each owner or occupant of the residential premises within the Contractor's service area affected by the change, specifying the days of pickup. The Contractor shall not make any changes in the days of pickup for its routes on file with the Board unless and until the Board has approved the change and each residential premises affected by any such change has received at least five (5) days prior notice of the change in a manner approved by the Board of County Commissioners.

ARTICLE XV. COMPLIANCE WITH SCHEDULES AND ROUTES. The Contractor shall abide by the routes and schedules filed with the Board. The County reserves the right to deny the Contractor's vehicles access to certain streets, alleys, and public ways in the County, where it is in the interest of the general public to

do so because of the condition of the streets, or bridges. The Contractor shall not unreasonably interrupt the regular schedule and quality of service because of street closures or other denial of access by the County.

ARTICLE XVI. STORMS AND OTHER EMERGENCIES. In case of a storm or other emergency, the Board may grant the Collector reasonable variance from regular schedules and routes. As soon as practicable after such storm or other emergency, the Collector shall advise the Board of the estimated time required before regular schedules and routes can be resumed and, upon request of the Board, the Contractor shall provide notice to residential premises in the service area. In event of emergency or disaster requiring mass cleanup operations, Collector shall, upon direction of the Board, participate in said cleanup, to the extent directed, including delay or rescheduling of regular routes, as directed by the Board. Collector shall be entitled to compensation from the County in the amount of actual documented costs, plus 10% of said costs. Any expenses incurred or revenue received under this provision shall not be included or considered in rate base calculations.

ARTICLE XVII. DISPOSAL OF WASTE. All refuse, upon being removed from the premises where produced or accumulated, shall become and be the property of the Collector. The Contractor shall dispose of residential waste in a manner and place approved by the County and operated in compliance with County Ordinances, at no cost to the County. The costs of operating the County's sanitary landfill or other disposal facilities for disposal of waste collected pursuant to the contract, shall be included in the waste collection charge imposed in Article XXXVII. The Collector may undertake organized salvage operations for the recycling of usable materials, upon obtaining approval of the Board of County Commissioners.

ARTICLE XVIII. LIABILITY INSURANCE - HOLD HARMLESS - WORKMEN'S COMP. The Collector shall carry public liability insurance to the extent of One Hundred Thousand/Three Hundred Thousand Dollars (\$100,000/\$300,000), for the death of, or injury to more than one person; and property damage insurance to the extent of Fifty Thousand Dollars (\$50,000), upon each of the trucks or other vehicles used by him in carrying out the work called for in this franchise; such insurance expressly to cover both the County and the Collector. A certificate showing that the Collector has in force and effect the aforesaid insurance covering both the Collector and said County shall be filed with the Clerk of the Board of

County Commissioners within ten (10) days from the execution of this franchise, 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 County, and also shall contain an endorsement obligating the insurance company to furnish the County thirty (30) days notice in advance of the cancellation of the insurance. Said policies of insurance shall name Holmes County as additional insured.

The Collector shall defend, indemnify and hold harmless Holmes County for any and all claims for damages of whatsoever kind or nature arising from or in any manner connected with any of his activities under this Franchise.

The collector shall carry Workmen's Compensation insurance on his employees and show proof of insurance and payment of premiums thereon to the County Commissioners, as requested. All such policies shall provide for notice by the insurer to the County at least sixty (60) days prior to any termination, revocation or modification thereof.

ARTICLE XIX. ACCOUNTING SYSTEM. The Collector shall keep its accounting records and books in accordance with general acceptable accounting principles. Contractor shall maintain in its offices at all times separate, accurate and complete records of its operations under this Franchise, which shall be available for inspection and audit by the County upon demand.

ARTICLE XX. FINANCIAL STATEMENT REQUIRED. The Contractor shall furnish the Board with annual financial statements, within forty-five (45) days after the expiration of the first six (6) months of the 1986 calendar year. Thereafter, the Collector shall furnish the Board with annual financial statements, within ninety (90) days after the expiration of each calendar year within the contract period. The statements shall be prepared in such form as to fully disclose the income and expenses properly chargeable to the franchised waste collection services as a separate operating entity, and in a uniform accounting format required by the Board.

ARTICLE XXI. INSPECTION OF SERVICES.

A. The Collector shall furnish the Board with every reasonable opportunity for ascertaining whether or not the services as performed are in accordance with the requirements of the Franchise.

B. The Chairman of the Board or his designee may inspect the Collector's operation and equipment at any reasonable time, and the Collector shall admit authorized representatives of the County to make such inspections at any reasonable time and place.

C. The Contractor shall cooperate with authorized personnel and representatives of the County in every reasonable way in order to facilitate the improvement of services contemplated under this Franchise.

ARTICLE XXII. EVALUATION OF CONTRACT PERFORMANCE. The Collector's performance under this Franchise shall be evaluated by the Board, or if and to the extent delegated by the Board, its staff. If at any time during the life of the Franchise, performance satisfactory to the Board shall not have been made, the Collector upon notification by the Board shall take all necessary steps including, but not limited to, increasing the work force, vehicles and equipment as needed to properly perform this contract. The failure of the Board to give such notification shall not relieve the Collector of his obligation to perform the work at the time and in the manner specified by this Franchise.

ARTICLE XXIII. BOARD TO BE REFEREE. The Board shall decide any and all questions which may arise concerning the quality and acceptability of the work and services performed, the sufficiency of performance, the interpretation of the Franchise provisions, and the acceptable fulfillment of the Franchise on the part of the Collector and will determine whether or not the amount, quantity, character and quality of the work performed is satisfactory, which determination shall be made in the manner required by and shall be consistent with the requirements of due process of law, particularly including due notice to the Collector and the right to be heard and to present evidence.

Nothing in this Article or in any other Article of this Franchise shall be construed or interpreted on the part of either party as an agreement not to or estoppel from seeking judicial relief in any court of competent jurisdiction relative to the respective rights of either party under this Franchise.

ARTICLE XXIV. OPERATIONS DURING DISPUTE. In the event that a dispute, if any, arises between the County and the Collector, or any other interested party in any way relating to this contract, performance or compensation hereunder, the Collector shall continue to render service in full compliance with all terms and conditions of this contract regardless of such dispute, it being recognized by the parties that collection of residential waste is an essential governmental function.

The Collector expressly recognizes the paramount right and duty of the County 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, neither party will seek injunctive relief in any court, but will either negotiate for an adjustment on the matter or matters in dispute, or present the matter to a court of competent jurisdiction in an appropriate suit therefor instituted by himself or by the County.

ARTICLE XXV. LIABILITY FOR DELAYS OR NONPERFORMANCE DUE TO UNUSUAL CIRCUMSTANCES. It is expressly agreed that in no event shall the County be liable or responsible to the Collector or to any other person on account of any stoppage or delay in the work herein provided for, by injunction or other legal or equitable proceedings brought against the Collector, or on account of any delay from any cause over which the County has no control.

The Contractor shall not be responsible for delays or nonperformance of the terms and provisions of this contract where such delays or nonperformance are caused by events or circumstances over which the Contractor has not control, including riots, civil disturbances, strikes, or acts of God; provided, however, that in the event of any such nonperformance or delay resulting from events or circumstances beyond the control of the Collector, the Collector shall not be entitled to compensation from customers for such period of time as the delay or nonperformance shall continue.

ARTICLE XXVI. IMPROPER COLLECTION SERVICE.

A. The Collector shall provide proper service as determined by the Board to all residential premises according to the service standards and the terms of this Franchise. The Collector shall use every reasonable and proper means in providing service to keep complaints at a minimum.

B. The Board or its staff, upon receipt of a complaint from owner or occupant of a residential premises to receive collection service, shall immediately notify the Collector and shall determine the reasonableness and legitimacy of a complaint.

C. Reasonable or legitimate complaints in this section shall include, but not be limited to failure to collect garbage, rubbish or refuse from a premise on the regularly scheduled day, littering, improper removal or destruction of waste receptacles, damage to property, misconduct by any of the Collectors or their employees, collection earlier than 5:30 a.m. or later than 7:00 p.m.,

unless approved or directed by the Board, or other complaints of improper service.

D. The Collector shall take whatever action may be necessary to provide proper service in response to a legitimate and reasonable complaint in this section by a customer or the Board or its staff.

ARTICLE XXVII. BREACH OF CONTRACT AND REMEDIES. The Board, and/or its delegated staff, shall serve as a review and enforcement body to insure that the Collector fulfills all of the obligations of the Franchise. It shall be the duty of the Board to observe closely the waste collection and disposal and determine if, in the opinion of the Board, there has been any breach of this Franchise. Upon request by the Board, the Collector agrees to appear before the Board to explain any breach of contract, giving any reasons for such breach and the action being taken to remedy such breach. The Board shall make a determination, based upon the evidence presented, as to whether there has been a breach of this contract and upon making such determination, shall direct what future action shall be taken by the County, as herein provided.

Such notice and hearing shall comply with the requirements of due process of law. Upon a finding by the Board that the Collector is guilty of a continual or substantial breach of contract, the Board may terminate this contract and provide residential waste collection services within the contractor's service area in such manner as it deems appropriate; provided, however, such action by the Board shall in no way prejudice its right to assert any claim for damages by reason of such breach.

ARTICLE XXVIII. ASSIGNMENT OR SUBLETTING FRANCHISE. The Franchise, shall not be assigned or sublet, except with prior written consent of the Board, and all obligations shall be performed by the Collector directly. No such consent will be construed as making the Board a party of or to such subcontract or assignment, or subjecting the County to liability of any kind to any subcontractor. No subcontract or assignment shall, under any circumstances, relieve the Collector of his liability and obligation under this contract, and despite any such assignment or subletting, the Board shall deal through the Collector. Subcontractors will be dealt with as workmen and representatives of the Contractor, and as such shall be subject to the same requirements as to character and competence as are other employees of the Contractor. If Collector wishes to transfer or assign this Franchise, he shall give written notice of such desire to the Board stating the terms and conditions upon which he wishes to transfer or assign the Franchise. The County shall have fifteen (15) day thereafter

within which to give Collector notice of its intent to purchase the Franchise upon the terms and conditions contained in such written notice. If the County does not exercise such right, the Collector shall give written notice of his desire to transfer or assign the Franchise to all other franchised collectors in Holmes County, stating the same terms and conditions as were given to the County.

Each of such Collectors shall have fifteen (15) days thereafter within which to give Collector notice of its intent to purchase such Franchise upon such terms and conditions. If such Collectors fail to exercise such right, the Collector may transfer said Franchise to any other person at terms not more favorable than those offered to the County and to the other franchised Collectors, provided; however, that any transfer shall be subject to the provisions of Chapter 57-1313, Laws of Florida.

ARTICLE XXIX. TRANSFERABILITY. This Franchise may not be sold, assigned or transferred to another by the Collector, nor shall any person cause or permit the transfer of stock control of a corporate Contractor unless approved by the Board. The transferor and transferee shall jointly file an application for a transfer, in the same form as required for an application for an original contract, together with the details of the proposed transaction, including consideration, method of payment, effective date of transfer, and other pertinent facts required by the Board. The Board shall approve or disapprove the transfer based upon the same criteria as apply to the original award of a contract, in a proceeding conducted under Chapter 57-1313, Florida Statutes. Any transferee shall agree to comply with, assume and perform all liabilities, obligations, conditions, and standards imposed by the contract upon the transferor. No consideration paid by a transferee to a transferor, allocable solely to franchise rights, shall ever be recognized by the County for purposes of determining compensation to a Collector.

ARTICLE XXX. NONEXCLUSIVE RIGHTS. Nothing in the contract shall be construed to give the Collector the exclusive rights to collect waste from commercial or industrial establishments or from any premises for which mechanical pickup container or other collection means is required by ordinance.

ARTICLE XXXI. COMPLIANCE WITH LAWS AND REGULATIONS. The Collector hereby agrees to abide with all applicable Federal, State and County laws and regulations and all amendments thereto throughout the duration of this Contract. The Collector and his surety shall indemnify and save harmless the County, all its officers, representatives, agents, and employees or his subcontractor.

ARTICLE XXXII. TAXES The Contractor shall pay all Federal, State and local taxes, including sales tax, social security, workmen's compensation, unemployment insurance, and other required taxes which may be chargeable against labor, material, equipment, real estate and any other items necessary to and in the performance of this contract.

ARTICLE XXXIII. NONDISCRIMINATION PROVISIONS. The Collector agrees that it has adopted and will maintain and enforce a policy of nondiscrimination on the basis of race, color, religion, sex, age or national origin, as approved by the County.

The Contractor agrees that on written request, it will permit reasonable access to its records of employment, employment advertisements, application forms, and other pertinent data and records by the Director of Equal Employment Opportunity, for the purposes of investigation to ascertain compliance with the nondiscrimination provisions of this contract, provided; however, that the Contractor shall not be required to produce for inspection any records covering any period of time more than one year prior to the date of this contract.

ARTICLE XXXIV. AMENDMENTS TO CONTRACT. Amendments which are consistent with the purposes of this contract may be made with the mutual consent of the parties and in accordance with the County Ordinances.

ARTICLE XXXV. MISCELLANEOUS PROVISIONS. Provisions of this Franchise shall be interpreted to attain the objective hereof to the end that all reasonable quantities and types of refuse placed for collection are collected.

It is agreed that in the event Contractor shall be adjudged bankrupt, either by voluntary or involuntary proceedings, then this Franchise shall immediately terminate. In no event shall this Franchise be, or be treated as an asset of Collector after adjudication of bankruptcy. If Collector shall be proven insolvent, or fail in business, then this Franchise may be terminated at the option of the County, in which event, the County shall have the right to lease or purchase Collector's operating equipment and records.

The County Commissioners shall enforce all terms and conditions of this Franchise.

ARTICLE XXXVI. ADMINISTRATION. The administration and enforcement of this Franchise shall be jointly the responsibility of the County and the Collector. It shall be the responsibility of the Collector to see that solid waste service customers are provided at all times with complete information about the service.

170

The County may adopt by resolution or ordinance any rules and regulations required to enforce or carry out the terms and conditions of this Franchise.

The Collector's equipment shall be inspected at a point designated by the County Commissioners during June of each year of this Franchise and shall certify and issue a permit indicating that the Collector's equipment conforms to the regulations of the Motor Vehicle Code and the Sanitary Code of the State of Florida and the Ordinances of Holmes County.

Each vehicle hauling refuse in the County by the Collector shall carry a fire extinguisher in accordance with the specifications adopted by the Fire Underwriters Association. Each fire extinguisher shall also be inspected every June and December of each year of this Franchise. The garage facilities shall have adequate fire extinguishers on the premises at all times in accordance with the specifications adopted by Fire Underwriter's Association.

ARTICLE XXXVII. RATES.

A. INITIAL RATE. From and after May 19th and until otherwise established by the Board of County Commissioners, the Collector may charge \$ 5.00 per customer per month for a single family residence (or equivalent) for the services required of Collector hereunder, with collection at the curbside or at the property line of alleys dedicated and maintained by the County. The rate shall become effective upon the execution of this Franchise Agreement and remain in effect until changed by the Board as provided herein. This initial rate shall be deemed to include, and has been calculated to accommodate all solid waste or refuse disposal fees established by the County and in effect as of May 19, 1986. Collector shall continue to pay to County solid waste disposal fees in accordance with schedules established by the Board, and any costs therefor shall be considered an operating expense of the Collector.

B. MANADATORY ANNUAL REVIEW OF RATES. On or before July 1986 and annually thereafter commencing on October 1, 1986; and thereafter, the County shall review the current annual financial statements furnished by Collectors as required by Article XX, and consider and establish the rates to be charged by Franchise holder in accordance with criteria for rates as established in this Franchise. If, upon review of said financial statements, the Board determines that an adjustment, whether upward or downward, is necessary to permit the Collector to earn a reasonable rate of return, based on the criteria established herein, said Board shall promptly conduct a public hearing after due

notice, and shall, upon consideration of the matters presented at said public hearing establish the rate to be charged by Collector to yield a reasonable rate of return.

If based on the financial report furnished by Collector, the Board is unable to compute a reasonable rate of return, or for any reason questions the validity of such figures, the County shall have the option, to audit the books and records of the Collector, either through the County Comptroller or an independent auditing firm selected by the County.

C. PETITION FOR RATE INCREASE. If, at any time, the Collector determines that the rates then established by the Board for his Franchise area do not result in a reasonable rate of return, based on the criteria established herein, he may petition the Board for a review of his rates. Such petitioner shall furnish to the County full and complete financial statements in the form required by the Comptroller, certified by the petitioner and prepared by a certified public accountant. Petitioner shall bear all expenses incurred by the County in advertising for public hearing on the petition. Upon submission of all necessary data respecting the petition, the Board shall give due notice and conduct a public hearing on the petition. The Board shall thereafter grant or deny the petition and enter such orders as may be necessary to effect the Board's decision. The Board shall make its determination on any such petition within 45 days following the filing of the petition. The time period set forth may be extended by mutual agreement of the parties.

D. INTERIM RATES. If at any time under this Franchise Agreement the Board is required to establish rates for the Collector, it may, in its discretion, enter an order approving interim rate increases, based on the best available data before it. Thereafter, the Board shall promptly conduct all investigations and audits and accumulate all necessary data to establish final and permanent rates for which the interim rates were substituted. In the event the rates finally determined by the Board are less than interim rates established by the Board, Collector shall rebate to its customers all excess charges received as a result of said interim rates, in a manner provided in the order of the Board establishing permanent rates.

E. PRIOR DETERMINATION OF INCLUSION OF INVESTMENT IN RATE BASE. In order that Collector may have reasonable assurance that contemplated investments, in excess of \$5,000.00, will be included in the rate base formula used in establishing

its permissible rates, Collector may request the Board to make such determination and the Board or its designated staff personnel shall do so within twenty (20) days after such request. Such determination shall be final and binding on both parties unless Collector seeks review of such determination by a Court of competent jurisdiction within ten (10) days after it is given notice of the Board's action.

F. ADDITIONAL REFUSE DISPOSAL FEES. At such times as the County assesses additional refuse disposal fees in excess of fees in effect on the last date upon which Collector's rates were reviewed as provided herein, the Collector shall be authorized to charge, in addition to the then current service rate, an amount per customer per month computed on the basis of the following formula:

Amount of increase in disposal fee (per ton or per cubic yard)
x the average monthly amount of refuse (per ton or per cubic
yard) collected pursuant to this franchise and delivered to
County disposal sites by Collector (such average to be computed
based on the County's records for the six months immediately
preceding the effective date of the fee increase) ÷ by the
number of Collector's customers the preceding January 1st.

Such increase in rates allowable because of additional disposal fees shall be considered an interim increase only and shall be subject to all of the provisions for interim rates, except the provisions concerning determination of amounts and initial authorization thereof.

G. CRITERIA FOR ESTABLISHMENT OF RATES. Except for the initial rate allowable hereunder, and except to the extent such may be impracticable for interim rate increases, all rates established by the Board under this Franchise shall be computed based on such criteria as will yield to the Collector a reasonable rate of return. The formula set forth on Exhibit "B" attached hereto and made a part hereof, shall be used as a guideline for determining rates to be charged by Collector for service required under this agreement. To the extent such may be applicable, a "reasonable return on rate base" as used in said formula, shall not be less than a percentage within the range established by the Florida Public Service Commission for utilities of similar character and nature.

ARTICLE XXXVIII. COLLECTIONS.

BILLING. Collector shall bill all occupants or owners monthly in advance on forms approved by the County. The Collector may bill quarterly if he so desires. If the Collector bills by the month, payment will be considered delinquent if not paid by the 10th of the month that customer is billed for. If Collector bills by the quarter, payment will be considered delinquent after the

last day of the first month in the quarter. If Collector has to terminate customers service for non-payment he may charge a \$1.00 cut off fee before reinstating customers service. Collector may at his option add a single 10% charge for any bill becoming delinquent.

RESPONSIBILITY FOR COLLECTIONS. The Collector shall be responsible for making collections from the customers and for payment of all fees, including Franchise fees and solid waste disposal fees to the County. The County shall perform its duty by enforcing any Ordinances in reference to solid waste to protect the Franchised Dealer.

IN WITNESS WHEREOF, the Collector shall be responsible for its proper officers and its seal to be hereto affixed and the County has caused these presents to be signed by the Chairman of the Board of County Commissioners and attested by it County Clerk and its seal affixed hereto, all as of the 19th day of May 1986.

ATTEST:

BY _____

(SEAL)

ATTEST:

County Clerk,

BY _____

(SEAL)

AS TO COLLECTOR:

Argus Services, Inc.

By _____

AS TO THE COUNTY:

BY _____

Chairman, Board of County Commissioners
Holmes County, Florida