

**CITY OF PINE BLUFF, ARKANSAS  
CITY COUNCIL**

ORDINANCE NO. 6686

**AN ORDINANCE EXTENDING THE SOLID WASTE FRANCHISE AGREEMENT  
WITH WASTE MANAGEMENT OF ARKANSAS, AND DECLARING AN  
EMERGENCY**

**WHEREAS**, the contract with Waste Management of Arkansas will expire on November 1, 2020; and

**WHEREAS**, the Public Health and Welfare Committee has reviewed and recommends that the City of Pine Bluff extend the solid waste franchise agreement with Waste Management of Arkansas, for a period of five (5) years, to expire on October 31, 2025; and

**WHEREAS**, the Pine Bluff City Council believes it is in the best interest of the City of Pine Bluff to extend said franchise agreement, without the necessity of competitive bidding, as authorized by A.C.A. §14-58-104.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF PINE BLUFF, ARKANSAS:**

**Section 1:** That the City Council, hereby, authorizes and approves a five (5) year extension of the attached Waste Management Agreement, which, in addition to amendments in the proposed 2020 agreement, this agreement also incorporates amendments adopted in 2008, 2009 and 2010.

**Section 2:** That the Mayor, hereby, is authorized to execute said agreement to extend the attached contract between Waste Management of Arkansas and the City of Pine Bluff.

**Section 3:** All ordinances or any part thereof conflicting with this Ordinance are repealed to the extent of the conflict.

**Section 4:** The provisions of this Ordinance are declared to be severable, and the holding by a court that any part hereof is invalid shall not invalidate the remaining parts, which shall be given full force and effect minus the invalid provision.

**Section 5:** This Ordinance being of a general or permanent nature, the Clerk shall cause its publication.

**Section 6:** EMERGENCY CLAUSE: That the continuation of garbage collection services, without interruption and at competitive rates, is vital to the public health, safety and welfare and wellbeing of the citizens of Pine Bluff. Hence, an emergency is declared to exist, and this ordinance shall be in full force and effect from the date of its passage.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2020.

ATTEST:

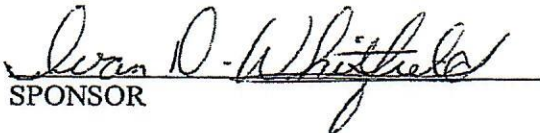
  
CITY CLERK

APPROVED:

  
MAYOR

APPROVED AS TO FORM:

  
CITY ATTORNEY

  
SPONSOR

MUNCIPAL SOLID WASTE

FRANCHISE AGREEMENT

between

CITY OF PINE BLUFF, ARKANSAS

and

WASTE MANAGEMENT OF ARKANSAS, INC.

**NOVEMBER 2020**

Includes 2008, 2009 and 2010  
amendments

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AN AGREEMENT GRANTING TO WASTE MANAGEMENT OF ARKANSAS INC. A DELAWARE CORPORATION (Grantee), THE EXCLUSIVE RIGHT AND CONTRACT TO OPERATE AND MAINTAIN THE SERVICE OF MUNICIPAL SOLID WASTE COLLECTION AND HAULING OVER, UPON, ALONG AND ACROSS THE PRESENT AND FUTURE STREETS, ALLEYS, BRIDGES AND PUBLIC PROPERTIES OF THE CITY OF PINE BLUFF, ARKANSAS (Grantor), AND PROVIDING REGULATIONS FOR THE OPERATION OF SAID SERVICE.

1. GRANT OF EXCLUSIVE FRANCHISE.

Grantee is hereby granted by this Agreement the exclusive right and privilege to conduct business for the purpose of collection and disposal of municipal solid waste within the corporate limits of Grantor and any tracts, territories and areas hereafter annexed to our acquired by Grantor. Subject to the exclusions or limitations contained in paragraphs 3, 5C, 7 and in this paragraph 1, all commercial enterprises located within the jurisdictional limits of Grantor shall contract for their municipal solid waste collection and disposal service with Grantee during the term hereof. Nothing in this agreement shall be construed to prevent any resident or commercial or industrial enterprise, including those engaged in recycling, salvage, construction or demolition, from self-hauling, nor to require such self-haulers to use a landfill owned or operated by grantee or an affiliate.

2. DEFINITIONS.

A. ANNIVERSARY DATE

November 1

B. BULKY ITEMS

Furniture, bicycles (without tires), refrigerators that have CFCs (Chloro Fluoro Carbons) removed and have been tagged by a certified technician, stoves, mattresses, box springs and other oversized wastes which are customary to ordinary housekeeping operations of a Residential Unit and whose large size precludes or complicates its handling by normal solid waste collection, processing or disposal methods. A Bulky Item must be capable of being safely lifted and carried by two persons.

C. BUNDLE

Tree, shrub and brush trimmings securely tied together forming an easily handled package, where no limb or branch exceeds 36" in length or is greater than 2 inches in diameter. The total weight of a Bundle shall not exceed 50 pounds.

D. CITY

City of Pine Bluff, Arkansas. Also referred to as GRANTOR.

E. CITY COUNCIL

The City Council of Pine Bluff, Arkansas

F. CONSTRUCTION DEBRIS

Waste building materials resulting from construction, remodeling, repair, or demolition operations that are directly or indirectly the by-products of construction work or that result from demolition of buildings or other structures, but specifically excluding Yard Waste. Construction Debris, regardless of where it is generated within the City, is considered Commercial or Industrial Waste and is not Residential Waste or Bulky Waste.

G. CONTRACT YEAR

Each 365- or 366-day yearly period during the term hereof commencing upon the effective date of this Agreement and each anniversary thereof and ending the day prior to the next such anniversary date.

H. CUSTOMER

An occupant of a residential unit or commercial establishment who generates municipal solid waste.

I. DEAD ANIMALS

Animals or portions thereof equal to or greater than ten (10) pounds in weight that have expired from any cause, except those slaughtered or killed for human uses.

J. DISPOSAL FACILITY

A depository for municipal solid waste including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separation centers licensed and permitted by all government bodies and agencies having jurisdiction.

K. GARBAGE

Any and all dead animals of less than ten (10) pounds in weight, except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers, and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter

included in the definition of Bulky Items, Construction Debris-Residential, Dead Animals, Hazardous Waste, Rubbish or Stable Matter.

L. HAZARDOUS WASTE

Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State of Arkansas to be "hazardous" as that term is defined by or pursuant to federal or state law.

M. LANDFILL

A lawfully permitted sanitary landfill of Grantee's selection.

N. MUNICIPAL SOLID WASTE: WASTE

Included any solid waste, except for sludge, resulting from the operation of a residential, commercial, governmental, or institutional establishment that would normally be collected, processed, and disposed of through a public or private solid waste management service. It includes any solid waste, except for sludge, resulting from the operation of a residential, commercial, governmental, or institutional establishment that would normally be collected, processed, and disposed of through a public or private solid waste management service. It includes bulky items, bundles, garbage, residential construction debris, commercial and industrial construction debris rubbish and yard waste, but does not include hazardous waste, dead animals or stable matter, as those terms are defined herein.

O. RESIDENTIAL UNIT

An occupied single-family dwelling, each occupied unit of a duplex and each occupied unit of a triplex. All other occupied dwellings, groups of dwellings or

numbers of units shall be considered to be in the commercial category. All occupied mobile homes will be considered a residential unit, unless a part of the licensed mobile home park, in which case it is a commercial customer. The classification as a commercial mobile home park will be determined by mutual Agreement of Grantor Grantee.

P. RUBBISH

Printed matter, paper, pasteboard, rags, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, products such as are used for packaging or wrapping, crockery and glass, ashes, cinders, floor sweepings, and any and all other waste materials not included in the definition of Bulky Items, Construction Debris, Dead Animals, Garbage, Hazardous Waste, or Stable Matter.

Q. RECYCLING

"Recycling" means any process by which solid waste, or materials which would otherwise become solid waste, are separated, collected, or processed, and reused or returned to use in the form of raw materials or products.

R. STABLE MATTER

All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animas, poultry or livestock.

S. YARD WASTE

As defined by Arkansas law; otherwise, to include all tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof not to exceed two (2) inches in diameter that are all containerized or placed in bags. A container or bag of

Yard Waste shall not exceed 50 pounds in weight. The term "Yard Waste" specifically excludes material resulting from the services of a Third-Party Provider.

- T. POLYCART OR CART: A rubber-wheeled receptacle with a maximum capacity of 90 - 96 gallons constructed of plastic, metal and/or fiberglass, designed for automated or semi-automated Waste collection systems, and having a lid capable of maintaining the contents in the Cart. The weight of a Polycart and its contents shall not exceed 175 lbs.
- U. THIRD PARTY PROVIDER: A person, business, or company that is not the occupant of a Residential Unit which provides services to that Residential Unit generating Yard Waste or Bulky Waste.
- V. COMMERCIAL AND/OR INDUSTRIAL UNIT: All commercial and industrial businesses and establishments, including but not limited to, stores, offices, restaurants, warehouses, governmental agencies, manufacturing facilities, premises, locations, or entities public or private, including temporary construction sites or projects, located within the corporate limits of the City.
- W. COMMERCIAL AND/OR INDUSTRIAL WASTE: All Waste generated by or at a Commercial or Industrial Unit, including but not limited to, Construction Debris generated by or at a Commercial or Industrial Unit or a Residential Unit. Commercial Waste and Industrial Waste excludes Unacceptable Waste.
- X. LIGHT COMMERCIAL UNIT: A retail or light commercial type of business, which generates no more than one (1) cubic yard of Waste per week, excluding Unacceptable Waste, Bulky Waste, Yard Waste, Bundles, and Construction Debris.

- Y. UNACCEPTABLE WASTE: Any waste or material that (i) is or contains Hazardous Waste, special waste, or untreated medical waste as defined by federal, state, or local laws, regulations, rules, or orders; (ii) the acceptance and handling of which by Grantee would cause a violation of any permit, condition, legal or regulatory requirement Grantee must abide by; (iii) could cause substantial damage to Grantee's equipment or facilities, (iv) presents a danger to the health or safety of the public or Grantee's employees; (v) Dead Animals weighing ten pounds (10 lbs.) or greater, or (vi) results from activities associated with the exploration, development, or production of oil or gas or geothermal resources.
- Z. UNUSUAL ACCUMULATIONS/OVERAGE: As to Residential Units, any Waste placed curbside for collection in excess of the volumes permitted by this Agreement or placed outside a single Polycart or on top of a Polycart. As to Commercial and Industrial Units, (i) any Waste or other material placed on top of or located outside the dumpster, roll-off or other Waste container regularly used for such collection service or (ii) in excess of the applicable weight limits or intended capacity such that the lid will not completely close.
3. EXCLUSIONS. This Agreement shall not cover hazardous waste as currently or in the future defined by applicable federal, state or local laws or regulations, nor be interpreted to prevent the removal of waste by the generator of such waste. Grantee will not be responsible, pursuant to this Agreement, for hauling human or animal waste, stable matter, dead animals, hazardous waste, auto parts, rocks, concrete, sand, gravel, dirt, or industrial process wastes from residential units. Grantee will assist the generators of such

excluded materials in securing legal and environmentally sound disposal of such excluded materials.

4. TERM. This Agreement shall expire **October 31, 2025**, unless renewed, amended, or extended in writing by mutual Agreement of the parties prior to its expiration.
5. RATES. Grantee is authorized to charge such reasonable rates as are mutually agreed upon and approved in advance by the Pine Bluff City Council for service to be furnished under this Agreement, it being understood and agreed between Grantor and Grantee that the following rates, which become effective November 1, 2020, are reasonable for the following described services:

A. RESIDENTIAL

i. Waste Polycart Collections: Grantee shall collect Waste generated at a Residential Unit and placed into up to two (2) Residential Unit's Polycart(s) once (1) per week. A Residential Unit Customer may request one additional Polycart from Grantee for the deposit of Waste. A Customer who sets out two full Waste Polycarts will be allowed to set out no more than three (3) bags of Waste for regular collection. For Customers with only one Polycart, Grantee shall only collect the Waste deposited in that Residential Unit's Polycart. Grantee shall not be required to collect (i) any Residential Waste that exceeds the requirements set forth in this subsection or (ii) a Polycart that is not properly placed curbside except as provided in 5.A.ii below. Residential rates for items requiring special handling outside the scope of this Agreement due to size, weight, type of material or placement may be negotiated at any time by Grantee and the Residential Unit Customer prior to collection.

ii. Residential Polycart Roll-to-Truck Service: Grantee will provide Residential Unit Polycart Roll-to-Truck service for Residential Unit Customers the Grantee determines which customers have demonstrated a need or hardship necessitating this special service and there is no able-bodied person residing at such Residential Unit. However, this service excludes Bulky Waste, Yard Waste, and Bundle collections. The Grantee has sole responsibility for determining which Residential Unit Customers qualify for this special service. Grantor will supplement Grantee's list of qualifying Customers' addresses, as it comes to the attention of the Grantor. "Roll-to-Truck" service means the Customer places their Waste Polycart near their garage or carport rather than curbside and Grantee will roll the Cart from that location to empty the Polycart and then return it to the original location. Grantee may refuse to provide this service if the location of the carport or garage for the Polycart exceeds 150 feet from the curb line or edge of pavement.

iii. Additional Polycart(s). Each Residential Unit Customers can request one additional Polycart in which to deposit Residential Unit Waste and to place curbside for weekly Polycart Waste collections. A Residential Unit Customer seeking an additional Polycart(s) shall contact Grantee for such Polycart and Grantee will deliver the additional Polycart within seven (7) business days. The rate for an additional Polycart provided to a Residential Unit is set forth in **Attachment A and B** and shall be adjusted in accordance with this agreement.

iv. Bulky Waste, Yard Waste, and Bundle Collection: Grantee agrees to collect Residential Unit Bulky Waste, Yard Waste, and Bundles to those Residential Unit Customers that call the Grantee by noon the day before the next regularly scheduled

collection date to schedule the Bulky Waste, Yard Waste, and/or Bundle collection. Residential Unit Customers shall contact the Grantee by calling 1-870-247-3747 to schedule the collection. Residential Unit Customers who contact the Grantee after noon the day before the next regularly scheduled Bulky Waste, Yard Waste and Bundle collection day, will be scheduled for the following week's collection. Customers shall place Bulky Waste, Yard Waste, and Bundles within three (3) feet of the curb, swale, paved surface of the roadway, closest accessible roadway, or other location agreed to by Grantee and Customer and will not place such items under power lines or tree branches, so that safe and efficient accessibility is provided to Grantee's collection crew and vehicle. Construction Debris is excluded from Bulky Waste, Yard Waste, and Bundle Collection. Construction Debris is considered Commercial Waste.

- v. Residential Unit Construction Debris. Construction Debris generated at a Residential Unit shall be deemed Commercial Waste and shall be collected pursuant to Section 5.B. of the Agreement.
- vi. The rates for Residential Unit Waste, Bulky Waste, Bundle, and Yard Waste collections is set forth in Attachment A herein. Residential rates for items requiring special handling outside the scope of this Agreement, including Unusual Accumulations, due to the size, weight, type of material, volume or placement may be negotiated at any time by Grantee and the generator prior to collection.
- vii. Contractor shall collect Waste placed in a Polycart from a Light Commercial Collection Unit once per week.

B. COMMERCIAL AND INDUSTRIAL COLLECTION

Grantee shall have the exclusive right to collect and transport all Commercial Waste and Industrial Waste from the Commercial Units and Industrial Units using dumpsters, compactors or roll off bins. Grantee shall have the right to provide all dumpsters, compactors or roll-off bins needed to provide such services to any Customer. The frequency of service and type of equipment Grantee provides shall be reasonably requested and agreed to between the Customer and Grantee. The dumpster, compactor or roll-off shall be located on a concrete pad at Customer's location to accommodate the equipment and provide a safe and accessible location reasonably acceptable to Grantee. Grantee may, at its sole option, require Commercial or Industrial Unit Customers to enter into individual contracts with Grantee to set forth the type of Waste equipment, services frequency, billing address, and any other special instructions regarding that Customer, subject to the terms of this Agreement. The rates Grantee agrees to charge Commercial and Industrial Unit Customers for Grantee's equipment and services is set forth in **Attachment A** hereto.

Material requiring special handling or disposal will be subject to additional charges to cover Grantee's reasonable additional costs and efforts to manage the material. Each time Grantee receives an approved rate increase for Commercial Unit or Industrial Unit Customers, Grantee shall give prior notice in writing to the Customer. Such notice may be included in the Customer's invoice from Grantee. Grantee will also provide written notice of such increase to Grantor, addressed to the Mayor of the City of Pine Bluff, setting forth the old rate, the new rate and the basis of and reasons for the increase. This

provision shall not apply to charges based on a change in level of service, type of equipment, or other item specific to a particular Customer.

C. SELF HAULING

(a) RESIDENTIAL CUSTOMERS

Pine Bluff residents presenting proof of residence will be offered Grantee's 10% discount for disposal at the Jefferson County landfill below the rates established and posted at the landfill for third party commercial haulers, provided that such rate will be available only for residential waste generated in the ordinary course of occupation of that resident's Residential Unit.

No person, residential unit owner or tenant, or commercial or industrial enterprise or governmental entity is authorized to permit or contract with any third person or company other than Grantee to haul waste generated upon the property of the residential unit owner or tenant or commercial or industrial enterprise or governmental entity.

(b)

A person, business or governmental entity generating waste at its own property may use its own vehicles to collect and transport that waste from its premises to a properly-licensed disposal facility, provided they comply with all applicable laws, regulations and ordinances pertaining to the collection, transportation and disposal of such waste.

Scrap metal businesses or other recycling facilities that receive or acquire waste products from a premises owner who is self-hauling may then self-haul the reusable or recyclable waste products received from the premises owner to a final

destination of the facilities choice so long as the facilities comply with all applicable laws, regulations and ordinances.

D. CPI RATE CHANGE

On each anniversary date during the term of this Agreement, the rate set forth in this Agreement shall be subject to increase or decrease, the amount of which shall be calculated by adding to the rate for the immediately preceding year an annual adder calculated in accordance with the following formula:

$$\text{Annual Adder} = \text{CPI} \times \text{rate for preceding year.}$$

Where: CPI = the percentage change for the most recent preceding 12 month period (through October 15) in the Consumer Price Index for which CPI-U information is current and available, based on the index entitled Consumer Price Index All Urban Consumers (CPI-U) U.S. City Average, South Region All Items 1982-84 = 100, from the U.S. Department of Labor, Bureau of Labor Statistics. ("CPI")

Percent changes in the index shall be calculated with the base years of 1982-1984 until the Bureau of Labor Statistics ("BLS") publishes data on a new base period.

Calculations shall be made from data on the new base from that time forward.

If the index specified above is discontinued, the parties shall agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar for CPI as may be then available, to carry out the intent of this provision.

E. RATE INCREASE LIMIT

The annual CPI based rate change will not exceed 5% in any given year unless the CPI index change as defined above is greater than 125% of such 5% maximum

(6.25% or greater) for two consecutive years. In this event, the CPI above 6.25% (125% of the 5% cap) may be implemented for each year after such second consecutive year it exceeds 6.25%. CPI rate increases apply to both commercial and residential customers. The formula to be used to calculate any future rate increases both Residential and Commercial Customers shall be the CPI increase applied equally across the board to current rate.

F. ADDITIONAL COMPENSATION

In addition to the rates specified in paragraphs A and B of this section, prior to each anniversary date Grantee may request additional compensation, subject to prior City Council approval and to become effective on the anniversary date, based on the following events and under the following circumstances:

(a) REGULATORY CHANGES

Grantee may request an increase in the rate to provide for any environmental compliance expenditures required solely by any new federal, state or local law, regulation, rule, ordinance, permit, permit condition, tax, fee, or surcharge not covered within the scope of the CPI that first becomes effective after the commencement date of this Agreement, and which was not imposed because of the action or inaction of Grantee. This paragraph shall not apply to future increases in expenditures to comply with previously adopted laws, regulations, rules, ordinances, etc., unless modified or amended in the future. At least 45 days prior to the anniversary date of this Agreement, Grantee shall provide Grantor with supporting data that is the basis for the requested increase, including an explanation of why the requested increase is not fully or partially reflected in the

CPI. Grantee shall amortize any capital expenditures required by such new laws or regulations, with interest at then current rates for financing in the Pine Bluff area, over the remaining term of this Agreement or the useful life of the capital item, whichever is longer. Similarly, any such regulatory change that results in a decrease in Grantee's cost of performance hereunder shall result in a proportional rate decrease, effective with the next anniversary date after the regulatory change.

(b) CUMULATIVE COMPENSATION

Every adjustment to Grantee's compensation conferred herein will be cumulative and in addition to every other adjustment conferred herein, provided such adjustment is not covered within the CPI. Any adjustment subsequently covered within the CPI within the course of the contract year will accordingly decrease by relative percentage any CPI increase the following contract year. At least 10 days prior to the anniversary date each year, Grantee shall notify Grantor of any CPI based rate adjustment proposed and provide the supporting data that is the basis for the rate adjustment.

G. USE OF JEFFERSON COUNTY LANDFILLS

Notwithstanding the foregoing, the parties agree that Grantor shall have the benefit of following terms negotiated between Grantee and Jefferson County as owner of the disposal site.

(a) NO HOST FEE

Grantee, existing as it does within Jefferson County, Arkansas, except as may be required by federal, state or local statutes, rules, ordinances or regulations, shall have no duty to pay any "host fee" or surcharge on its waste volumes delivered to the

disposal site (defined as "Base Rental" in Grantee's lease with Jefferson County for the Disposal site). Increases in the "Base Rental" (as defined in Grantee's lease with Jefferson County) paid by Grantee for use of the disposal site shall not affect Grantor's rate under this Agreement.

(b) DISCOUNT

Due to the reduced risk of environmental harm, and absence of credit risk represented by affiliated Waste Management of North America, Inc. operating entities, Grantee's company policy allows Grantee to enjoy a 10% discount in disposal rate at Waste Management of North America, Inc. affiliated disposal sites. Grantee has and will continue to pass the benefits of this 10% disposal price discount through to the benefit of Grantor under this Agreement.

(c) THIRD PARTY BENEFICIARY

Grantor is specifically referenced as third-party beneficiary to Jefferson County's commitment to provide a minimum of 20 years of disposal capacity to its Solid Waste Management District through the acquisition of supplementary lands as needed to fulfill the commitment.

6. COLLECTION SERVICES

A. POLYCART OR CART

Grantee shall provide one 90 to 96-gallon Polycart to each Residential Unit Customer and the Polycarts ("Carts") shall remain the property of Grantee. The Carts shall remain at the location of the Residential Unit where delivered by Grantee. No other sizes of Polycarts shall be provided or used by Residential Unit Customers. Grantee will provide replacement Carts at no cost to replace those Carts at Residential Units

that are damaged. In the event a Cart at a Residential Unit should become lost or is missing, Grantee agrees to replace such lost or missing Cart with a replacement Cart, at no cost to the Residential Unit customer, within five (5) days. Carts shall be placed by the Customer of a Residential Unit in a location that is readily accessible to Grantee and its collection equipment, not to exceed three (3) feet from the curb or edge of the travel portion of the street, road or alley, and not to be located in a manner that will block the driveway or mailbox or otherwise inhibit proper servicing. The Grantor shall aid Grantee in resolving problems of Cart location by the Customer. Customers shall not overload Carts, and the Carts shall be loaded such that the lids shall close securely.

**B. REQUIREMENTS FOR YARD WASTE AND BUNDLES**

[This subsection incorporated in Section 5 (A)(iv)]

**C. LARGE & BULKY ITEMS**

[This subsection incorporated in Section 6B.]

**D. PICKUP PRACTICE**

Grantee shall make collections with as little noise and with as little disturbance to household or business places as possible and without disturbing the peace. Under no circumstances shall Grantee collect refuse in any residential area between the hours of 10 p.m. and 6 a.m., provided, however, Grantee may make collections in predominately commercial areas between said hours. The space around the Commercial Unit containers shall be left free from any waste refuse spilled from a properly loaded Polycart during collection. Grantee shall not be responsible for cleaning up other unsanitary conditions around the waste containers caused by

overloading of the containers or other carelessness of the owner employee or customers. Care shall be taken by Grantee's employees to prevent damage to containers by their unnecessary rough treatment. Employees of Grantee shall not be required to expose themselves to the danger of being bitten by vicious dogs in order to accomplish waste collection in any case where the owner or tenant has such an animal at large.

E. HOLIDAY SCHEDULES

Grantee may, but shall not be required to, provide service on Sundays or holidays, but must provide a minimum of one waste pickup per week. All commercial customers scheduled on a holiday may be picked up on the following day. Grantee shall publish a holiday schedule in the local newspaper prior to any holiday-delayed pickup.

Holidays for the purpose of this Agreement shall be as follows: New Year's Day, Thanksgiving Day, Christmas Day, Independence Day, Memorial Day, Labor Day, and Martin Luther King Day.

F. PICKUP OF YARD WASTE, ETC.

Grantee agrees to collect Yard Waste, Bundles, and Bulky Waste from those Residential Units that have contacted the Grantee at least by noon the day before the next regularly scheduled collection date for their next regularly scheduled Waste collection day. Failure of the Grantee to pick up such items from a Residential Unit that has timely requested collection and properly placed such items curbside may subject the Grantee to a fine of \$25.00 per occurrence, unless the Grantee can demonstrate that the complaint is not valid or correct. In the event Grantee's failure to collect these items from a scheduled Residential Unit is a result of inclement

weather, road closing or some other occurrence beyond Grantee's control, no fine may be assessed. For Residential Unit Customers who request collection of Yard Waste, Bulky Waste, or Bundles after noon of their next regular collection date, Grantee shall collect such items on or before the next regular Waste collection day.

7. STATE, LOCAL AND FEDERAL REGULATIONS

Grantee agrees to comply with all existing and future laws of the United States and of Arkansas and agrees to comply with the regulations of any regulatory body or officer authorized to prescribe or enforce regulations pertaining to the subject matter of this Agreement, it being expressly agreed that in the event of an emergency nothing in this Agreement shall be construed in any manner to abridge the right of Grantor to pass or enforce necessary police, health and other regulations for the protection of its inhabitants.

8. OFFICE

Grantee shall establish an office with a separate telephone listing, under the name of Waste Management of Pine Bluff, to handle all inquiries and complaints with regard to waste collection within the City of Pine Bluff. The Grantee shall enhance the customer call-in center to provide timely, responsive collection of customer calls. The Grantee shall address all complaints it receives promptly. The Grantee shall log all complaints it receives and provide the log to the Office of the Mayor on a weekly basis. The Grantee must reasonably resolve the complaints it receives. If the Grantee believes the complaint cannot be reasonably resolved, then the customer may complete a formal Complaint Form to be provided to both Waste Management and the Office of the Mayor to discuss further action.

The office shall be open from 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding regular holidays.

9. ENFORCEMENT

The service furnished hereunder to Grantor and its inhabitants shall be subject to such reasonable rules and regulations as Grantee may make from time to time, subject to approval of the Pine Bluff City Council. Grantee may require reasonable security for payment of bills. Commercial and industrial billing shall be conducted by Grantee monthly in advance. Grantor shall collect for residential service, and remit monthly to Grantee. Grantee may seek an injunction against any third party which is believed to be infringing on the rights of Grantee created by this exclusive franchise Agreement. By granting this right to Grantee, Grantor is no way reduces its right to enforce this Agreement or any other City of Pine Bluff ordinance relating to the collection and disposal of waste. Furthermore, Grantee shall have all civil rights and remedies available to it under Arkansas law to collect delinquent payment of fees by commercial and industrial customers.

10. RIGHT OF ASSIGNMENT

This Agreement may be assigned by Grantee with the approval Grantor. Such approval shall not be unreasonably withheld.

11. GRANTEE NOT REPRESENTATIVE OF GRANTOR

Grantee is an independent contractor and shall be solely responsible for the actions of its agents and employees during the performance of service under this Agreement. Grantee shall require Grantee's employees to act in the best interest of Grantor and its citizens.

12. EQUIPMENT REQUIREMENTS

Grantee agrees to maintain the waste collection system contemplated by this Agreement in as modern, efficient and environmentally and economically sound condition as can reasonably be accomplished. Grantee shall make available for use a minimum of four (4) collection trucks and two (2) boom trucks, in good repair, to the municipality. Collection trucks and boom truck servicing the City shall not be more than five (5) years old.

13. LANDFILL CAPACITY

Grantee shall have and maintain during the term hereof adequate disposal capacity for Grantor's needs.

14. DEFAULT/TERMINATION

Except as otherwise provided herein, if either party defaults in the performance of any of the covenants or conditions contained herein, and fails to cure such default within thirty (30) days after the non-defaulting party has given the defaulting party written notice of such default (or if such default is of a nature that it cannot be cured within such thirty (30) day period, the defaulting party fails to commence the curing of such default within such thirty (30) day period, and fails to thereafter diligently pursue the curing thereof) (the "Cure Period"), the non-defaulting party may: (a) terminate this Agreement as of any date which the non-defaulting party may select, provided said date is at least thirty (30) days after the expiration of the Cure Period; (b) cure the default at the expense of the defaulting party; and/or (c) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right to all damages or losses suffered as a result of such termination. In the event either party waives default by the

other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default. In addition, the Grantor may, at its option, terminate and cancel this Agreement and, at the expense of the Grantee's surety, complete the terms of the Agreement, or cause the same to be completed.

Such termination shall not affect or terminate any of the rights of the Grantor against the Grantee or its surety then existing, or which may thereafter accrue because of such default. The foregoing provision shall be in addition to all other rights and remedies available to Grantor under the law.

In the event that the Grantee shall become insolvent or shall become the subject of a proceeding in bankruptcy or shall become the subject of any proceeding for the appointment of a receiver, or in the event of any assignment by the Grantee for the benefit of creditors, or the taking of its trucks, equipment, vehicles, and other such events, the Grantor may, at its option upon five (5) days written notice and Grantee's failure to cure, declare the Grantee to be in breach of its agreement and the Grantor may terminate the Grantee, and at the expense of the Grantee's surety, complete the contract or cause the same to be completed, and in addition, the Grantor shall be entitled to recover damages and take such other actions and seek such other remedies as may be permitted by Arkansas law.

In lieu of termination the Agreement, the Grantor may fine Grantee up to \$750 per day, per default event, and must notify Grantee of such violation and fine by issuing a Notice of Assessment. In addition to other remedies available to Grantor, in the event Grantee shall wholly fail to collect and dispose of Waste during any one full week, Grantor may then proceed with such work and deduct any and all reasonable costs from

the amount herein specified as payment to Grantee. If the amount owed by Grantee to Grantor is insufficient to fully compensate Grantor for said reasonable cost, it shall be the obligation of Grantee to reimburse Grantor for such cost. The requirements of this paragraph shall not apply to automatic fines imposed under paragraph 6.F.

The waiver of a breach of any term or condition contained herein shall not operate as a waiver of any subsequent breach of the same or any other term or condition.

15. FORCE MAJEURE

The performance of this Agreement may be suspended and the obligations hereunder excused in the event and during the period that such performance is prevented by a cause or causes beyond reasonable control of a party. Such causes shall include, but not be limited to, acts of God, acts of war, riot, fire, explosion, accident, flood or sabotage; lack of adequate fuel, power, or raw materials; judicial action or governmental laws or regulations (provided that neither party shall be required to settle a labor dispute against its own best judgment). However, Grantee shall continue to conduct its regularly scheduled Waste collection from Residential Units and Commercial and Industrial Units, in all areas where Grantee determines it is safe for Grantee's employees and vehicles to enter.

16. LIABILITY INSURANCE

Grantee shall provide and maintain during the life of this Agreement, with a financially responsible insurance company licensed in the state of Arkansas, which shall be rated with at least the second highest rating from AM Best's insurance rating service, public liability and property damage insurance in the following amounts:

A. PUBLIC LIABILITY & PROPERTY DAMAGE

One million dollars (\$1,000,000) CSL to protect itself, its agents, and its employees from claims for damage for personal injury, including wrongful and accidental death and property damage which may arise from operations under this Agreement. The policy or policies shall name Grantor as additional insured and shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving Grantor thirty days (30) notice in writing. Grantor may require that the limits stated herein be raised in the event liability of municipal governments is increased by amendment to current statutes, or any other state or federal legal requirement.

B. WORKER'S COMPENSATION

Grantee agrees to provide and maintain workers' compensation coverage on all of Grantee's employees in the statutorily required amounts with a carrier reasonably acceptable to Grantor.

17. SPECIAL SERVICES - CITY OPERATION

Grantee shall collect and dispose of waste from all facilities owned or operated by Grantor or its agencies and instrumentalities, without charge.

Grantee agrees to provide four (4) 30 cubic yard roll-off boxes up to four (4) times per year during one-day City-wide clean ups for the disposal of Waste. Grantor agrees to provide Grantee with at least seven (7) to fourteen (14) days' notice of the clean-up event date and the location in which the Grantee should place the four (4) roll-off boxes.

Grantee will provide the four (4) 30 cubic yard roll-off boxes and one haul per each at no charge. Any additional roll-off boxes in excess of four (4) or additional hauls will be charged to the Grantor at the then-current rate set forth in Attachment A.

18. INDEMNITY

Grantee shall defend, indemnify and hold harmless Grantor and each of its officers, agents, servants and employees from any and all suits, actions, claims, losses or damages of any character and from all expenses (including attorney fees) incidental to the defense of such suits, actions or claims based upon or arising out of any injury, disease, sickness or death of any person or persons, or any damages to any property caused by any act or omission of Grantee or its officers, agent, servants, employees, or anyone else under Grantee's direction and control.

19. PRIOR AGREEMENTS

This Agreement supersedes any contract which now exists or may have previously existed between the parties relating to the subject matter of this Agreement.

20. SAVINGS

In the event any term of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, this Agreement shall to the extent reasonably possible remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

21. CHANGE IN SERVICE LEVELS

Grantor may request a change in the level of service and pickup rate schedule as deemed necessary by the City Council. The parties may negotiate these levels and type services at rates reasonable and appropriate to the services provided. In the event a level of service different from the current level set forth in this Agreement is selected, Grantee shall diligently work to put that service into effect, and shall be allowed a commercially reasonable time to comply. The parties may by mutual agreement in writing modify this

Agreement to appropriately provide for the detailed methods, equipment and waste placement contemplated by the services level selected.

22. RECYCLING

Grantor and Grantee agree that Grantee has no obligation to perform any recycling or composting services under this Agreement. The parties have the right to amend this Agreement in the future to include such services if mutually agreed upon in writing.

23. HOUSE COUNT

The house count will be determined by the number of Residential Units (as defined herein) within the Grantor's city limits appearing on the utility billing records of Liberty Utility (formerly United Water Company), Hardin Water Company, Watson Chapel Water Company, Hwy 64 Rural Water Association and any other water utility which provides water services within the Pine Bluff city limits (collectively, "Water Companies"). For the first six (6) months of the calendar year, the House Count shall be determined based the Water Companies' billing records as of November 1. For the second six (6) months of each calendar year, the House Count shall be determined based on the Water Companies' billing records as of May 1<sup>st</sup> of that year. Grantee shall assist Grantor in obtaining the relevant Water Companies' billing records as of those dates, and within thirty (30) days shall advise Grantee of any proposed increase or decrease to the House Count, and provide to Grantee copies of such relevant utility billing records along with any notations and worksheets used by Grantor to determine the proposed revision to the House Count. Upon receipt of such information, the parties shall meet and agree upon the revised House Count.

24. MUTUAL RELEASE

Beginning on the effective date of this Agreement, this Agreement supersedes all prior agreements of the parties and both parties agree to accept the obligations and benefits of this Agreement in lieu of and in satisfaction of all existing claims and disputes, and each party releases the other from such claims and disputes. Provided however, Grantee retains the right to collect all sums due pursuant to rates previously approved by the City Council.

25. MERGER

This Agreement contains the entire agreement of the parties. All previous discussions and negotiations of the parties relating to the subject matter covered by this Agreement are merged into this Agreement, and neither party is relying on any representations, statements, agreement or assurances of the other which are not set forth in this Agreement.

26. EFFECTIVE DATE

The effective date of this Agreement shall be November 1, 2020. Rates previously approved by the City Council shall remain in effect until this Agreement becomes effective.

27. FUTURE BIDS

During the last twelve months of this Agreement Grantor may seek or solicit bids and/or negotiate with other entities for the service of municipal solid waste collection and hauling, to commence upon expiration of this Agreement.

28. INSPECTION OF RECORDS

In the event of any material dispute between the parties regarding this agreement, or any request for a rate increase by Grantee other than a CPI increase, Grantor, its agents, attorneys and accountants shall have access to the financial, accounting and other records of Grantor and affiliates which relate to performance or cost of performance of this Agreement, and shall have the right to inspect, review, copy, summarize and audit such records.

29. CHOICE OF LAW AND FORUM

Any litigations involving this Agreement shall be commenced in the state court located in Jefferson County, Arkansas, and Arkansas procedural and substantive law shall apply.

30. DISASTER EVENT.

Grantee and Grantor understand and agree that, in the event of a hurricane, tornado, major storm, flood, fire, natural disaster, war, act of terrorism, pandemic, or other act of God ("Disaster Event"), Grantee shall have no obligation under this Agreement to collect any material or debris resulting from the Disaster Event. The Grantor has the right to engage a contractor of its choice to collect material or debris resulting from a Disaster Event. If the Grantor desires to engage Grantee and Grantee agrees to provide such services, the parties will enter into a separate contract for collection and handling of such material. Grantee shall continue regularly scheduled collection of waste placed in Polycarts at Residential Units and Commercial and Industrial Units in all areas where Grantee determines its employees and waste collection vehicle can safely navigate.

31. LIQUIDATED DAMAGES

In the event of a strike or collective bargaining issues affecting collection, the Grantee shall pay the sum of \$5000.00 for each and every day that the Grantee shall fail or refuse to perform its duties and obligations, or to comply with the provisions of this Agreement. Said event shall constitute a breach of this Agreement. Grantor may elect to terminate this Agreement upon thirty (30) days notice to Grantee, at the expense of the Grantee's surety, to either complete the terms of this Agreement, or cause the terms of Agreement to be completed.

32. TERMINATION

[Termination language moved to Section 14, Default/Termination]

33. SEVERABILITY.

If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants

Attachment A – Rates

**PINE BLUFF, AR**

**RESIDENTIAL RATES**

\$15.69 per residential unit per month

One additional cart: \$5.00 per month

**COMMERCIAL RATES**

Container Size	FREQUENCY PER WEEK					
	1XWK	2XWK	3XWK	4XWK	5XWK	6XWK
Commercial Hand-PU	\$29.19	N/A	N/A	N/A	N/A	N/A
2 Yard	\$99.34	\$148.27	\$197.17	\$247.56	\$302.43	N/A
4 Yard	\$148.27	\$247.56	\$346.91	\$466.41	\$547.04	N/A
6 Yard	\$197.17	\$346.91	\$496.64	\$646.28	\$808.00	N/A
8 Yard	\$247.56	\$447.73	\$644.89	\$845.05	\$1,043.69	N/A
Lock bar: One-time fee of \$46.24 for installation.						
REDELIVERY RATE FOR NON-PAYMENT:			\$54.52			

**ROLL-OFF RATES**

Container Size	Delivery Rate	Rental Rate-PER DAY AFTER 7 DAYS	BY Month or Day Rate	Hauling Charge (Per Pull Total or Haul + Disposal)	Haul Rate per Pull	Disposal Rate per ton
20-yard	\$58.82	\$4.34			\$295.71	
25-yard	N/A	N/A			N/A	
30-yard	\$58.82	\$4.34			\$421.69	
40-yard	\$58.82	\$4.34			\$469.61	

Grantee will provide compactors at Rates associated with the design, size, age and other Factors related to the compactor and Customer premises, which will vary by Customer.

# HOW TO BUNDLE TRASH

**Call in to have scheduled for next service day.**

## BULK

- Carpet (rolled up)
- Stoves
- Refrigerators (NO freon)
- Water Tanks
- Washers & Dryers
- Toilets
- Sinks
- Furniture
- Mattresses
- Box Springs

*Please have items in an area free of tree branches and power/cable lines!*

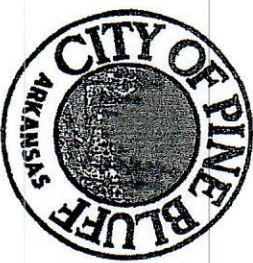
## YARD WASTE

*On normal service day, all items must be:*

- Bagged
- Bundled
- Containerized
- Limb Bundles:
  1. No more than 3 ft.
  2. 2 inches in diameter
  3. No more than 50 lbs.

*Construction debris and hazardous waste not acceptable!*

**Thank You from the City of Pine Bluff**



**(870) 247-3747**