

Holiday Island

Suburban Improvement District

110 Woodsdale Drive
Holiday Island, AR 72631
(479) 253-9700
hisid@holidayislandark.org

TO: HISID Board of Commissioners

FROM: Kevin Crosson, District Manager *KC*

DATE: July 15, 2010

SUBJ: *Solid Waste Collection Services in Holiday Island*

District staff recommends that the District Board of Commissioners, once again, seriously consider the possibility of either franchising or signing an exclusive contract for the provision of solid waste collection services in Holiday Island. As you know, one of the District's work plan objectives states that the District will investigate the possibility of franchise arrangements for our various utility services:

Develop a detailed recommendation regarding the establishment of franchise fees for Holiday Island as both a revenue source and as a protection of District rights-of-way, and initiate negotiations with affected utility organizations.

In terms of immediate need, solid waste collection services contribute the predominant adverse impact on District rights-of-way, specifically road surfaces. There are currently four (4) licensed collection haulers that provide collection services to residential and commercial accounts in Holiday Island – J. Brown Disposal, Ace Disposal, American Disposal Services of the Ozarks, and the Carroll County Solid Waste Authority. The equipment and loads used for these services contribute to the degradation of road surfaces, and particularly so with chip/seal surfaces; by allowing four separate haulers duplicate trips on our road system, road damage, repairs and resurfacing needs increase to an unacceptable factor in terms of real District costs.

History

The District initially evaluated the possibility of franchising or contracting for solid waste services in 2003-2004 primarily in an attempt to control illegal dumping and/or illegal use of commercial containers at District and commercial locations. Without mandatory collection, there is no incentive for less-than scrupulous residents to subscribe to a collection service. The District entered into negotiations with the Carroll County Solid Waste Authority to explore various opportunities to address those problems. Roughly coinciding with this evaluation, the Authority established a drop-off recycling center at the convenience store in the Park on Highway 23, at the urging of a persistent group of Holiday Island property owners.

The Authority is a legal local governmental entity formed under the Arkansas Solid Waste Management Act of 1987, which was enacted to centralize the management of solid waste collection and disposal into specific geographic regions of the state, provide local governmental oversight and representation, establish waste reduction goals through recycling and other means, and extend the life of landfill resources, which is particularly important in the northwest portion of the state. Significantly, the Carroll County Solid Waste Authority provides residential and commercial solid waste collection services for the cities of Berryville, Green Forest, and Eureka Springs, along with recycling and other waste reduction services from key drop-off centers in the county.

At staff's request, the Authority made a detailed presentation to the District Board of Commissioners in July, 2003. The Authority reviewed a selection of alternatives for the centralization and management of solid waste collection in Holiday Island, and the Board authorized staff to continue negotiations for a contract with the Authority to establish an exclusive, mandatory collection system for the community. A preliminary draft of a solid waste regulation and an inter-local agreement for solid waste and recycling services (Attachment #1, #2) were developed and presented to the Board and public in 2004.

In the course of negotiations, a key question arose regarding the District's legal status to actually address solid waste under ACA §14-92-219, which outlines the purposes for which a suburban improvement district can be established. A requested Attorney General's opinion (Attachment #3) indicated negatively, and with the help and support of then-state representative Phil Jackson, the statutes for SIDs were modified in 2005 to include solid waste provisions (Attachment #4).

In the course of the public discussions regarding establishing an exclusive solid waste system, significant public opposition to the proposal was voiced. The focus of the opposition centered on (1) resistance to a mandatory system billed through the District's utility, and (2) elimination of choices for service. A number of individuals complained that their disposal habits did not require once per week collection, and that they used other disposal methods, such as hauling their trash to the transfer station, or to their primary residence at another community. Other complaints focused on eliminating service providers that they were pleased with, both from a rate and service standpoint. Because of the cloud regarding the District's legal status to manage solid waste services, and because of the opposition, the Board tabled the issue in 2004.

In 2007, in response to problems with significant contamination issues at the drop off recycling center, the Board asked, once again, that the proposal be readdressed, with an emphasis on curbside recycling as an added component. Again, community opposition forced the Board to table consideration. The Authority, however, initiated subscription services with curbside recycling in Holiday Island in 2007, and continues to grow in accounts each year.

Recommendations

Staff recommends that the District Board of Commissioners once again give serious consideration to establishing an exclusive, mandatory solid waste collection system for Holiday Island, and authorize the District Manager to re-initiate negotiations with the Carroll County Solid Waste Authority. Due in large part to our current financial uncertainty, the District has an obligation to protect and extend the life of our road surfaces from unnecessary damage. I have asked Mr. Phil Jackson, Executive Director of the Carroll County Solid Waste Authority to be available at our Work Session to answer any questions regarding this critical issue.

Please feel free to contact me at your convenience with any questions or comments. Thank you.

Regulation # _____

Establishment of District Services for the Collection of Solid Waste

Whereas residents and businesses within the boundaries of the Holiday Island Suburban Improvement District (District) are not currently mandated to subscribe to solid waste collection and disposal services;

Whereas solid waste services that are currently available to residents and businesses within the District are provided by more than one service provider whose trucks duplicate trips upon the District rights-of-way and whose service and fees are not uniform throughout the District;

Whereas the failure of some residents to pay for and subscribe to regular collection of solid waste contributes to illegal dumping of solid waste and to the illegal use of solid waste collection containers currently provided for a fee to other District residents;

Whereas, like its water and sewerage systems, it is the desire of the Board of Commissioners to provide a single, efficient and uniform system for the collection and disposal of solid waste within the District boundaries;

Whereas, ACA Sec. 14-92-219 (2), authorizes the Board of Commissioners of the Holiday Island Suburban Improvement District to operate a system for the collection and disposal of solid waste within the district;

Whereas in order to effectuate such purposes as set forth above for the collection and disposal of solid waste, ACA Sec. 14-92-210 authorizes the Board of Commissioners to enter into contracts; to join with other political subdivisions, and to establish rules and regulations for the use of such services.

Now, therefore, be it resolved by the Board of Commissioners of the Holiday Island Suburban Improvement District:

Section 1. Contract Requirement

No individual, partnership, or corporation shall engage in or carry on the business and operation of collecting and transferring residential solid wastes, commercial solid wastes,

recyclable materials, hazardous wastes, or white goods over and upon the streets and public ways of the District or otherwise within the boundaries of the District, unless said individual, partnership, or corporation shall have a valid contract with the District.

Section 2. Mandatory Service

Beginning January 1, 2005, residential and commercial solid waste collection services as established and provided by the District, shall be mandatory for all residential and commercial units within the District boundaries, and each District water account shall include a charge for District solid waste collection services.

Section 3. District Services Provided

Solid waste collection services and associated fees shall be provided in accordance with that certain Inter-Local Agreement dated the ___ day of _____, 2004, between the District and the Carroll County Solid Waste Authority.

Draft

INTER-LOCAL AGREEMENT
for
SOLID WASTE AND RECYCLING SERVICES

This Inter-Local Agreement, made and entered into this ____ day of _____, 2004, by and between two units of Arkansas local government the same being, the Holiday Island Suburban Improvement District ("District") and the Carroll County Solid Waste Authority ("Authority"), is intended to recite the terms and consideration for the extension of solid waste and recycling services from the authority to residents and businesses within the Holiday Island Suburban Improvement District.

Whereas, among other purposes, the Authority was organized for the purpose of extending and operating solid waste facilities in Carroll County, all as authorized by Section 14-233 of the Arkansas Code;

Whereas, the District wishes to secure the services of the Authority for the purpose of solid waste and recyclable collection, transfer, processing and disposal.

Now, therefore, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

I. DEFINITIONS

- A. **Bag.** Any bag made of plastic, paper or other material that is used to dispose of solid waste, that does not exceed thirty five (35) gallon capacity, and that can be tied shut to contain the solid waste.
- B. **Bulky Goods.** Items to be disposed of through a contractor that cannot be contained in a bag, reusable container or contractor-provided solid waste container.
- C. **Bulky Item Permit.** A permit sold by the District which identifies bulky goods to be collected by the contractor.
- D. **District.** The Holiday Island Suburban Improvement District, Carroll County, Arkansas.
- E. **District Bag.** A plastic bag that is identified by color, logo, or tag as a District bag.
- F. **Authority.** The Carroll County Solid Waste Authority.
- G. **Authority-Provided Solid Waste Container.** Any solid waste storage container that is provided to a non-residential customer by the Authority.

H. Heavy Industrial Customer. Any solid waste producer that compacts and stores their solid waste in a roll-off dumpster or other type of container that is designed to be taken directly to a landfill or other permanent disposal site.

I. Non-Residential Customer. Any solid waste producer that is not classified as a residential customer.

J. Overage Permit. A permit sold by the District which allows the customer to dispose of up to twelve (12) bags of solid waste when moving out of or into a residential or non-residential account location.

K. Recyclable Material. Material that can be recycled and that is being stored or transported for that purpose.

L. Residential Customer. Any solid waste producer that lives in a structure that is used primarily as living quarters, where a family or individual uses at least 75% of the floor space for residential purposes and where the structure is not attached to another residence separated by a wall or doors that lock. A duplex, or building with two separate residences and two separate water meters, may be classified as residential for purposes of solid waste pick-up if the solid waste collection areas for the two residences are at least twenty five (25) feet apart.

M. Reusable Container. Any solid waste storage container that does not exceed thirty five (35) gallon capacity and that is used and owned by a residential or non-residential customer.

N. Solid Waste. Any trash, food, refuse, container, or other rubbish produced by a residential or non-residential establishment that can be collected and transported by a Authority and accepted by a landfill that is duly licensed and approved by the State of Arkansas and that meets all applicable local, state, and federal laws.

O. Solid Waste Collection Area. The area or space in which a residential or non-residential customer places their solid waste for collection.

II. SCOPE OF AGREEMENT

A. Effective date. This Agreement shall become effective on the day of execution. The Authority shall begin solid waste and recycling services on January 1, 2005.

B. Term. The term of this Agreement shall be for five (5) years beginning on the date of execution and is renewable upon agreement of both parties.

C. Exclusive Right. During the term of this Agreement, the District, as grantor, grants the Authority, as grantee, the exclusive right to collect and transfer solid waste and to provide residential and commercial recycling services from all sites within the District limits.

D. Governing Law. The validity, construction, interpretation, and effect of this Agreement shall be governed by the laws of the state of Arkansas. The Authority shall conduct the services provided for by this Agreement in compliance with all applicable federal and state regulations and laws. This Agreement is also subject to the provisions of all applicable District Regulations.

- S. Dispute Resolution. The District Board of Commissioners shall rule on all disputes regarding the type of service classification, availability of service, or any other dispute that may arise between customers and the Authority.
- P. Breach of Agreement. Upon failure of the Authority to perform in a satisfactory manner under the terms of this Agreement or failure to perform in accordance with applicable laws and regulations, the District shall have the right to submit a written demand for assurances. Within fourteen (14) days of receipt of this demand, the Authority must either appear before the District Board of Commissioners or return a written response explaining the reasons for the non-performance, sub-standard performance, delayed performance, or non-compliance and explaining the steps that have been taken or will be taken to correct the problem. Except under conditions of force majeure, the District Board of Commissioners may then cancel the Authority's license with the District and terminate the Agreement by majority vote.
- G. Force Majeure. Neither the District nor the Authority shall be liable for failure to perform or substandard performance where such failure or substandard performance is caused by a catastrophe, riot, war, governmental order, strike, accident, act of god or other contingency beyond the reasonable control of the District or the Authority. If the circumstances persist for more than seven (7) days or if the circumstances cease and the affected party is still unable to give full or substantial performance under the Agreement for a period of more than seven (7) days, the Agreement may be canceled with seven (7) days notice to the other party.
- H. Waivers. Failure of either party to enforce any provision of this Agreement shall not be interpreted as a waiver of any succeeding breach of that provision nor as an acceptance of defective performance. Where the District and Authority intend to waive a condition that is a material part of the Agreement, the waiver must be in the form of a written modification to this Agreement.
- I. Agreement Modification. Changes in the terms of this Agreement shall not be effective unless the change is made in writing, approved by the District Board of Commissioners, and signed and dated by authorized representatives of the District and the Authority. The signed original must be fastened to the original Agreement, with signed copies retained by each party.
- J. Assignment. The Authority may sub-contract to provide a portion of the services, but shall not transfer the rights and interests under this Agreement to a third party without the express written consent of the District. If the Authority's business assets are sold, the District retains the right to hold the original owner solely liable or to terminate the Agreement by majority vote of the District Council.
- K. Invalid Provisions. If any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, such holding shall not affect the remaining parts of this Agreement, which shall remain in full force and effect.
- L. Merger clause. This agreement constitutes the complete and final agreement between the parties. All prior and contemporaneous agreements, whether oral or written, are without effect if they alter or contradict this Agreement.

III. SERVICES, OPERATIONS, AND PERFORMANCE

A. Services To Be Provided. The Authority shall collect, transfer and dispose of solid waste from all residential, commercial and industrial customers within the District boundaries and within any area annexed into the District during the term of this Agreement. Under District Regulation Number ____, every residence, business, and corporation in the Holiday Island Suburban Improvement District is required to dispose of its solid waste through a contractor licensed by the District. An exception exists for solid waste that cannot be taken by the Authority or that has value as a recyclable material.

1. Residential Service:

- a. The residential customer is responsible for placing solid waste (excluding bulky goods) in a reusable type container not to exceed thirty five (35) gallon capacity or in a plastic bag not to exceed thirty five (35) gallon capacity.
- b. For the base residential fee set forth below, the Authority will pick up only two plastic bags or reusable containers of thirty five (35) gallon capacity or less each week at each residential account location. Additional containers or bags will be logged and additional fees assessed.
- c. For an additional fee as set forth below, residents may receive service as set forth above, two times per week.
- c. With the exception of house-side service described below, all residential solid waste shall be placed within five (5) feet of the street, alley or driveway used by the Authority to serve that residence.

2. Disabled House-Side Service:

- a. A special house-side service will be available to residences that have no occupants reasonably capable of taking waste to the curb.
- b. Verification of disability will be performed by the District.
- c. The District will provide the Authority with notice of account locations that qualify for such house-side service.

2. Commercial Service:

- a. All commercial solid waste shall be stored in containers provided by the Authority unless such waste is of a minimal volume that can be contained in two reusable containers or in two plastic bags of thirty five (35) gallon capacity or less.
- b. Commercial customers who so choose may share an Authority-provided container provided that the number of commercial customers using the same container never exceeds three and provided that those customers sharing a container are in adjoining buildings or are located within a radius of fifty (50) yards. Customers must

submit to the District notice of intent to share a container, and copies of each notice of intent will be submitted by the District to the Authority.

- **C.** Owners of trailer parks within the District limits may choose to use Authority-provided, solid waste containers on a commercial basis or, if each trailer has its own water meter, may require each trailer resident to provide for their own service on a residential basis.

d. All commercial customers will provide a solid waste collection area that is accessible to the Authority and that will not cause the Authority delays or undue hardship in collecting the solid waste.

4. Dual Accounts:

a. Any customer who has both a residential and a commercial account within the District limits may choose to have all of their solid waste picked up at one account location and pay for only that account.

b. The customer must first send written notice to the District, identifying both account locations and indicating the account to be billed.

5. Handicap service:

a. In accordance with the Americans with Disabilities Act, the Authority shall make reasonable accommodation to facilitate the collection of solid waste for customers who, because of disability or handicap, are unable to place their solid waste in the normal collection areas.

6. Bulky Items Permit:

a. For a fee, a District permit will be issued to any residential or commercial customer who wishes to dispose of bulky items that cannot be placed in a bag, reusable container, or Authority-provided container.

b. The permit must be attached to the bulky item(s) before collection by the Authority is required.

7. Overage permit:

a. For a fee, a District permit will be issued for the disposal of up to twelve (12) bags of solid waste at one time for any residential or non-residential customer who is moving and is having water discontinued or who is paying a deposit for new water service.

b. The permit must be attached to the solid waste before collection by the Authority is required.

8. Recycling services:

a. The Authority shall collect, process and provide for the marketing of recyclable materials placed at the curb by residents once every two weeks. The policy and rules for residential recycling shall be set forth by the Authority and shall be reviewed and negotiated with the District or its duly appointed representatives. Title to such recyclable materials shall transfer to the Authority once placed at the curb, and all revenues from the sale of such materials shall be retained by the Authority to defray the cost of processing.

b. The Authority shall continue servicing responsibilities for the Holiday Island Suburban Improvement District Recycling Drop-Off Center. Such service shall include the placement of portable material bins and containers, the placement of signage, and the regular servicing of such bins by hauling full bins and replacing such with empty bins as needed.

The District and the Authority shall observe use of the center by its patrons and shall educate and inform patrons of its proper use when possible. The District and the Authority shall keep the grounds clean by picking up trash and other debris on a daily basis. The annual fee for provision of the Drop-Off Center shall be \$5,000.00 payable by February 1 of each contract year.

9. Heavy Industrial Services:

a. The Authority shall provide solid waste collection and transfer services for heavy industrial locations within the District boundaries and within any area annexed into the District during the term of this Agreement. Heavy industrial service is the collection of solid waste that is loaded and stored in containers designed to be transported directly to an approved landfill or disposal site. Solid waste shall be transported to the landfill that is approved by the Authority for use by the Carroll County Transfer Station.

B. Time and Frequency of Collection. Normal hours of collection for residential solid waste and curbside recycling service shall be from 5:00 a.m. to 8:00 p.m. on Monday through Friday. Hours of collection for commercial service will be as required. Times for collection of heavy industrial solid waste shall be negotiated between the Authority and the customer.

For commercial and residential customers, anytime a normal collection day is missed by the contractor, whether for observance of holidays or for other reasons, the Authority shall schedule a special collection day in order to meet its weekly frequency of collection obligation. If the Authority plans to omit a regularly scheduled collection day for observance of holidays such as Christmas, it shall notify the District and shall notify residents in a prior publication in a newspaper of general circulation within the District.

C. Missed stops. If a particular customer complains of a missed stop, the complaint is received by either the District or by the Authority and, if no fault on the part of the generator can be found, the solid waste shall be collected by the Authority within forty eight (48) hours of the

initial complaint. The District shall notify the Authority of a complaint of missed stop within twelve (12) hours of receiving the complaint.

D. Routes and schedules for collection. The Authority shall provide the District with schedules and maps of residential collection routes. Any changes in the routes and/or schedules are subject to District approval. If changes in the routes or schedules alter the day of collection, the Authority shall notify each affected customer within five (5) days.

K. Vehicles and Equipment. All trucks and other equipment used for the storage, collection and transfer of solid waste shall be kept in proper and safe repair and in sanitary condition. All commercial containers sited within the District under the terms of this Agreement shall: 1) be new or freshly painted; 2) have lids; 3) have locks that are available to customers upon request, with at least one customer key and one master key; and 4) have tow hooks.

All vehicles shall be equipped to sufficiently retain all solid waste, including wet garbage, and shall be covered in such a way that solid waste will not fall onto public or private property. Each truck shall be equipped with at least one broom and shovel to be used to clean up any solid waste that is spilled or otherwise scattered during the collection process.

F. Title to Solid wastes. The District shall hold title to all solid wastes collected within the corporate District limits by the Authority.

G. Hazardous wastes. The Authority shall not collect or transfer hazardous waste from customers on its routes as such is defined by state or federal regulations.

H. Disposal Site. All solid waste collected within the corporate limits of the District shall be transferred by the Authority to its Transfer Station located in Berryville, Arkansas or directly to the Authority's contracted landfill. The Authority shall be responsible for the payment of all fees associated with the disposal of solid waste collected under the authority of this Agreement.

I. Office. The Authority shall maintain a business office for customer inquiries during normal business hours and shall provide toll-free telephone access to that office.

J. Personnel. The Authority shall require its employees to be courteous at all times, to work quietly and to not use loud or profane language.

The business office shall employ full-time customer service personnel to be available to answer customer inquiries by phone or in person during normal business hours five days per week. The Authority's personnel shall work cooperatively with the District to inform customers of complaint procedures, rates, regulations, collection schedules, and special solid waste management projects. Authority's office personnel shall maintain radio or mobile phone communications with field operations personnel during business hours.

Operations personnel shall wear Authority uniforms clearly labeled with the name of the Authority or the name of the Authority's contractor, as well as the name of the employee. Employees shall wear shirts while on duty, and clothing should be as neat and clean as circumstances permit. Each employee that is assigned to drive a vehicle shall carry a valid driver's license for the type of vehicle he or she is operating. All operations personnel shall be

trained for the use of safety equipment. Operations personnel shall follow regular walkways and shall not loiter on private property.

K. Service Accounts and Billing procedures. Billing and collection of fees for the collection of residential and commercial solid waste and for special permits and tags shall be performed by the District through its Water and Sewer Department, subject to current policies of the Department regarding non-payment and late payment of bills. The billing and collection of Heavy Industrial Service fees will be the responsibility of the Authority. Upon execution of this Agreement, the District will provide the Authority with a list of all account locations for each commercial service designation as shown by service code in the District's utility billing records. The District shall also notify the Authority within three (3) weekdays of any new accounts, terminations or changes.

At the close of each billing cycle, the District shall pay the Authority all money collected for residential and commercial service, tags, and permits, withholding only the District's billing service fees.

L. Notice. When written notice is required for any purpose under this agreement, sufficient notice shall be constituted by a letter properly addressed and sent by mail, certified mail, or registered mail to the following addresses:

For Notices to District:

Holiday Island Suburban Improvement District
105 Woodside Drive
Holiday Island, AR 72632
Attn: District Manager

For Notices To Authority:

Carroll County Solid Waste Authority
3190 E Van Buren
Eureka Springs, AR 72632
Attn: Director

IV. INSURANCE

Throughout the term of this Agreement, the Authority and/or its contractors shall maintain in full force and effect the following types of insurance and shall provide evidence of policies in force upon request.

Coverage's:

Workers' Compensation
General Liability
Vehicle Liability
Excess Umbrella

V. INDEMNITY

The Authority and its contractors will indemnify and save harmless the District, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and/or attorney fee. resulting from a willful or negligent act or omission of the Authority, its officers, agents, servants, or employees in the performance of this Agreement. Neither the Authority nor its contractors shall be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and/or attorneys fees arising out of the award of this Agreement or of a willful or negligent act or omission of the District, its officers, agents, servants, or employees.

VI. PERMITS, LICENSES, AND TAXES

The Authority shall pay all taxes promptly and shall obtain and assume the cost of all State, and Regional Solid Waste Management District licenses and permits required for the collection and transport of solid waste and recyclable materials under this Agreement.

VII. EVALUATIONS

At least twice a year, the District and the Authority shall evaluate the terms of and the services rendered under the Agreement. The evaluations shall address customer complaints, solid waste management changes and requests for rate adjustments.

A. Customer Complaints. Throughout the Agreement period, the District and the Authority shall document customer complaints. The Authority shall make every effort to maintain excellent customer relations and shall work with the District to provide customers with information on services provided and on methods for resolving complaints.

B. Solid Waste Management Policy Changes. The Authority shall work closely with the District in adapting services, procedures, routes, etc. to compliment the solid waste management policies and practices of the Carroll County Solid Waste Management Authority and of the Regional Solid Waste Management District. The Authority shall cooperate with the District in

making reasonable Agreement modifications that support local and regional solid waste management policies and practices.

C. Requests for Rate Adjustments. During the evaluation process, the Authority may petition the District for rate adjustments on the basis of changes in the cost of living for the preceding year as reflected by the Bureau of the Labor Statistics Consumer Price Index (CPI-W). The Authority may also petition the District for price adjustments caused by unusual changes in the costs of operations resulting from: changes in statutes, regulations, or ordinances; change in the disposal site location or fees; or other pertinent factors. As a condition for its approval of the rate adjustment, the District shall have the right to demand an inspection (by its own representative or by an independent auditor) of records that demonstrate the need for an adjustment to the rates.

IX. SERVICE RATES

Rates for the various services set forth herein are as follows:

Residential Service Rates		
Basic Residential Service	\$17.00	House-Side Service \$20.00
Residential Service 2x/WK	\$23.00	Additional Bags \$1.50
Monthly Billing Service Fee	\$0.50	(Retained from Gross Rev by District)

Commercial Service Rates*		
	-Times per Week-	
	1	2
Commercial Bag Rate	\$18.00	\$24.00
Additional Bags	\$1.00	//////////
Poly Cart	\$23.94	\$41.58
2 Yard Container	\$59.16	\$91.67
3 Yard Container	\$73.48	\$110.90
4 Yard Container	\$96.13	\$155.28
5 Yard Container	\$125.69	\$192.25
8 Yard Container	\$155.28	\$244.00

* Solid Waste in excess of container capacity shall be charged at the rate of \$10.00 / cubic yd.
 (10% of Collection Revenues to be Retained by the District for Franchise Fee)

Industrial Rates*		
40 Yd Compactor Receiver	\$14.00 / CY	\$500 per Container
40 Yd Open Top Containers	\$12.25 / CY	\$490 per Container
30 Yd Open Top Containers	\$13.50 / CY	\$405 per Container
20 Yd Open Top Containers	\$18.75 / CY	\$375 per Container
15 Yd Open Top Containers	\$20.00 / CY	\$300 per Container

(Add \$75.00 Set Fee for Initial Delivery plus \$100 monthly rental for containers not serviced at least 1x/mo)

Service provided for the HISID Drop-Off Center shall be provided for a flat fee of \$5,000 per year.

X. NONDISCRIMINATION

Neither the Authority nor any sub-contractor nor any persons acting on the Authority's behalf shall discriminate against any person because of race, sex, age, creed, color, religion, national origin, or disability.

THIS Agreement, Made and entered into this _____ day of _____ 2004 by and between the Holiday Island Suburban Improvement District ("District") and the Carroll County Solid Waste Authority, ("Authority").

WITNESSETH, That the Authority and the District for consideration stated herein agree as follows:

1. This Agreement shall take effect on January 1, 2005 and unless canceled pursuant to the terms of this agreement, shall remain in full force and effect for five (5) years until December 31, 2010 with option to renew as described in the Agreement specifications.

4. This Agreement is intended to conform to applicable statutes of the State of Arkansas, and if any part or provision of this Agreement conflicts therewith, the state statute shall govern.

IN WITNESS WHEREOF, We, the Agreement parties, by our duly authorized agents, hereto affix our signatures and seals as of this _____ day of _____, 2004.

District:

Authority:

Chairman
Holiday Island Suburban Improvement District

Chairman
Carroll County Solid Waste Authority

ATTEST:
(Seal)

ATTEST:
(Seal)

District Clerk

Secretary



**THE ATTORNEY GENERAL
STATE OF ARKANSAS
MIKE BEEBE**

Opinion No. 2004-325

January 13, 2005

The Honorable Phillip Jackson
State Representative
4033 Highway 62 West
Berryville, AR 72616-8949

Dear Representative Jackson:

I am writing in response to your request for an opinion regarding the establishment of a solid waste collection and disposal system or service within the Holiday Island Suburban Improvement District. You have asked, specifically, "[a]re there any legal restrictions which would prevent the Commissioners from voting to implement this system?"

You have cited A.C.A. § 14-92-219 as potential authority for such a system. You state in this regard that "[t]he establishment of a solid waste (trash) collection system would appear to be within the spirit of the potential purpose of the suburban improvement district type of government entity." You state further that "[s]uch a system or service would not be established unless voted on by the majority of the elected District Commissioners."

RESPONSE

It is my opinion that the establishment of a solid waste collection and disposal system or service is outside the purpose(s) for which a suburban improvement district may be formed. Accordingly, it is my opinion that the answer to your specific question is "yes." There are legal restrictions that would prevent the Commissioners of the Holiday Island Suburban Improvement District from voting to implement a solid waste collection and disposal system or service.

It is well established that an improvement district's powers are limited to those that are statutorily authorized. This principle has been expressed by the Arkansas Supreme Court as follows:

This court has repeatedly held that an improvement district can exercise only such powers as it is authorized by statute to exercise; that is, those necessarily or fairly implied, or incident to the powers expressly granted.

Page v. Highway 10, Water Pipe Line Improvement District No. 1, 201 Ark. 512, 515, 145 S.W.2d 344 (1940).

The court in *Page* also stated:

Commissioners of the improvement district can exercise no powers but those which are conferred upon them by the Act by which they are constituted, or such as are necessary to the exercise of their corporate powers, the performance of their corporate duties and the accomplishment of the purposes of their association.

Id. at 518.

The law governing suburban improvement districts is codified at A.C.A. § 14-19-201 *et seq.* (Repl. 1998 and Supp. 2003). It is evident from a review of this body of law that suburban improvement districts are authorized for the purpose of constructing any one or more of the improvements and facilities that are specifically designated by statute. *See* A.C.A. § 14-92-219 (Repl. 1998). *Accord Cherokee Village Homeowners Protective Ass'n v. Cherokee Village Rd. & St. Imp. Dist. No. 1*, 248 Ark. 1055, 455 S.W.2d 93 (1970); *McCoy v. Holman*, 173 Ark. 592, 292 S.W. 999 (1927). Section 14-92-219 lists the improvements and facilities as: *waterworks systems, sewage systems and facilities, streets and highways, recreational facilities, sidewalks, gas pipelines, telephone lines, rural fire departments, hospitals and ambulance services, and libraries.* A.C.A. § 14-92-219 (1) through (11) (Repl. 1998). *See also* A.C.A. § 14-92-205 and -220 (regarding the petition to form a district and powers incidental to acquiring and maintaining the authorized improvements).

