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DEPARTMENT OF JUSTICE
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OPINION 13-0184

Mr. Bryan D. Haggerty
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90-A-1 PUBLIC FUNDS & CONTRACTS
La. R.S. 33:4169.1

Pursuant to La. R.S. 33:4169.1(A)(3), the City may only extend to a total twenty-five year term the portion of the contract which governs services for disposal of garbage or trash. Services relating to collecting and transportation of garbage or trash are limited to a ten year maximum contract term. The term of the current contract must be included with the contract extension term when calculating the total contract term.

Dear Mr. Haggerty:

You have requested an opinion of this office regarding whether the City of Slidell ("City") can extend an existing contract for the collection, transportation and disposal of garbage to a total term of twenty-five years.

The current contract was awarded after the City issued a request for proposals. The scope of the services "covered by this contract are for the collection, transportation and disposal of residential solid waste, including green waste, and separated recyclable materials for residential units, in the corporate limits of the City." The contract further provides that "[t]he Contractor shall be the sole and exclusive agent to provide residential solid waste collection and disposal and recycling services as set forth herein for and on behalf of the City. This agreement shall not constitute a franchise or exclusive right to collect from commercial units within the City."

Your request specifically mentions La. Atty. Gen. Op. No. 03-0374, which stated, "The contract you describe appears to be in the nature of collection, transportation and disposal of garbage which would be limited to a 25 year term." Your request states that it is unclear whether a contract for the collection, transportation and disposal of garbage could have a twenty-five year contract term.

La. R.S. 33:4169.1(A) grants the governing authority of every parish or municipality the following powers with regard to the collection and disposal of garbage and trash:

- (1) To engage in the collection and disposal of garbage and trash within its jurisdiction in cooperation with, or to the exclusion of, other garbage and trash collectors.

(2) To grant permits, licenses, exclusive or nonexclusive franchises, or any combination thereof to garbage and trash collectors and disposers. Any exclusive franchise shall be granted only after advertising for bids, reception of bids, and awarding of the contract or contracts in accordance with the public bid laws of the state and other provisions of law.

(3) To enter into time contracts for the collection and transportation of garbage or trash for a term of up to ten years, and for disposal of garbage or trash for a term of up to twenty-five years.¹

Paragraph (A)(3) of the above cited statute sets forth two different time limits for contracts entered into under the authority of this statute: ten year terms for contracts for the collection and transportation of garbage or trash and up to twenty-five year terms for contracts for the disposal of garbage or trash. In our view, the legislature has chosen to distinguish between these types of contracts by listing them separately and by providing a different maximum time limit for each type of contract. We find the plain language of this statute to be clear and unambiguous. When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature. La. C.C. art. 9.

La. Atty. Gen. Op. No. 96-130 addressed whether the Iberia Parish Council could negotiate an operating contract for solid waste collection and disposal and whether such a contract could be extended to a twenty year term. With regard to the length of the contract, the opinion provided:

As set forth in R.S. 33:4169.1A(3) contracts for the collection and transportation of garbage and trash may not exceed 10 years in term, while contracts for the disposal of garbage and trash may be for up to twenty-five years in term. The contract which you describe appears to be in the nature of a disposal contract which would be limited to a 25 year term.

As you can see, even if collection, transportation, and disposal of garbage are all services covered under the same contract, the plain language of La. R.S. 33:4169.1 still sets forth different maximum terms for contracts for the collecting and transportation of

¹ We point out that our office has interpreted or otherwise referenced La. R.S. 33:4169.1 on a number of prior occasions. See *generally* La. Atty. Gen. Op. Nos. 11-0059, 09-0087, 03-0374, 97-239, 97-205 and 96-130. In general terms, it has consistently been our opinion that unless such garbage contracts are structured as exclusive franchises, they may be awarded by negotiation rather than by a public bid process, subject to the limits on the maximum term of such contracts as set forth in La. Rev. Stat. 33:4169.1.

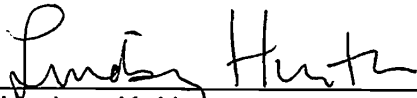
garbage or trash (10 year maximum term) and for disposal of garbage or trash (25 year maximum term).

Therefore, it is our opinion that pursuant to La. R.S. 33:4169.1(A)(3), the City may only extend to a total twenty-five year term the portion of the contract which governs services for disposal of garbage or trash. Services relating to collecting and transportation of garbage or trash are limited to a ten year maximum contract term. Please note that the term of the current contract that you wish to extend must be included when calculating the total length of the contract. In other words, if the current contract for garbage or trash disposal is for a ten year term, the contract can only be extended another fifteen years, thereby resulting in a total contract term of twenty-five years.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

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By: 
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JDC/LKH/chb