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DEPARTMENT OF JUSTICE
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OPINION 13-0114

Mr. Robert W. Tillery
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Hammond, Louisiana 70404

90-A-1 PUBLIC FUNDS & CONTRACTS
La. R.S. 33:3811
La. R.S. 33:3813.2
La. R.S. 49:125

The Tangipahoa Water District may dispose of surplus movable property at public auction pursuant to La. R.S. 49:125 and employ a qualified licensed auctioneer to handle the public auction.

Dear Mr. Tillery:

You have requested an opinion of this office regarding whether the Tangipahoa Water District ("District") may use the authority set forth in La. R.S. 49:125 to dispose of surplus vehicles at public auction. For the reasons explained below, it is our opinion that the District may dispose of its surplus vehicles by public auction.

The legislature has expressly authorized the various parishes of the State to create water districts within their parish. La. R.S. 33:3811. The District was created by the Tangipahoa Parish Council pursuant to Tangipahoa Parish Ordinance No. 92-16, as amended by Tangipahoa Parish Ordinance Nos. 92-29 and 92-47. The District was made a part of the Louisiana Revised Statutes by La. R.S. 33:3813.2. The broad powers of waterworks districts are set forth by La. R.S. 33:3815(A), which provides as follows:

Any waterworks district thus created and named or numbered by a police jury shall constitute a body corporate in law, with all the powers of a corporation, and all powers necessary for it to carry out the objects for which it was created. The waterworks district may expropriate property for any purpose that it may find necessary in the operation of its waterworks system, and may acquire by donation or purchase any existing waterworks system in the district. Waterworks districts may dig and excavate the roads, streets, sidewalks, and alleys in the district for the purpose of laying pipeline or water mains. It may acquire any and all machinery necessary for the purpose of affecting the object for which it is formed and shall own all sites which are acquired either by donation, purchase, expropriation, exchange, or otherwise in full ownership.

The legislature has also expressly authorized certain public entities to sell surplus movable property at auction. La. R.S. 49:125 provides as follows:

A. Notwithstanding any other provision of law to the contrary, the state or any board, commission, department or agency of the state or any political subdivision of the state is hereby authorized to sell surplus movable property at public auction, in addition to the other methods provided by law for such sales. The unit of government so desiring to sell surplus movable property at public auction is authorized to employ qualified licensed auctioneers to handle said sale.

B. No sale at public auction shall be at a price which is less than is required by law, and all such sales shall be advertised in the manner provided by law.

C. The unit of government so desiring to sell surplus movable property at public auction shall reserve the right to reject any and all bids and remove said item of movable property from sale.

In responding to your opinion request, we find *Alexis v. Kare-Sue, Inc, et al*, 187 So. 2d 476 (La. App. 4 Cir. 6/6/66), to be instructive. *Alexis* was a declaratory judgment action which asked the court to determine whether a water district had the authority to sell its idle, vacant and surplus lands not dedicated for public use or forming parts of its system. *Id.* The court stated as follows:

Water District No. 1 is admittedly an independent corporate political subdivision of the State, existing and created under the authority of the Constitution and the Legislature (La. Const. art. XIV, Sec. 14; La. R.S. 33:3811-33:3835), and has authority to sell its idle, vacant and surplus lands, not dedicated for public use or forming part of its system, and such a sale si [sic] not a 'grant' within the general prohibition of sale of public lands under Article 4, Sec . 12, of the Constitution.

* * *

The jurisprudence is clear that corporate political subdivisions of the State, properly created under the authority of the Legislature, as was the Water District No. 1, with the broad powers and authority therein vested, have full and complete legal authority and capacity to sell their idle and surplus real property at private sale to a private corporation, notwithstanding there is no express or special authority as such in the Constitution or Statutes. Such corporate political subdivisions of the State not only have the authority to sell, but have the duty to sell and dispose of excess real

property, and it is not necessary for the Legislature to say so in a special enactment.

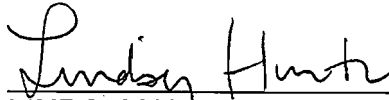
(Internal citations omitted.)

Id. at 477. The District was created under the same provisions as the water district in *Alexis* and is also a corporate political subdivision of the State. Although *Alexis* addresses a water district's authority to dispose of surplus real property, it is our opinion that the broad authority given to water districts by La. R.S. 33:3815, specifically the authority to acquire certain movable property ("it may acquire any and all machinery necessary"), includes the authority to dispose of the movable property once it is no longer needed for the District's public purpose. Because the District is a corporate political subdivision of the State, it may avail itself of La. R.S. 49:125 and sell its surplus movable property at public auction and may do so using a private auctioneer to conduct the sale as long as the sale is made public. Public notice of the sale provides notice and an opportunity to those who may be interested in purchasing the property as well as to those who oppose such a sale.

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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