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State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
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January 7, 2014
OPINION 13-0206

71-1-A MUNICIPALITIES- City Parish Charter

La. R.S. 33:4169.1

Mr. Dannie P. Garrett, III
263 Third Street, Ste 707
Baton Rouge, LA 70801

The City of New Roads has the authority to create, maintain, and contract for its own waste collection and disposal. The Parish of Pointe Coupee does not have the authority to contract with a vendor to provide waste collection and disposal services for households in the City of New Roads without the authorization of the New Roads City Council and the signature of the Mayor of New Roads.

Dear Mr. Garrett:

Our office received your request for an opinion on whether the Parish of Pointe Coupee ("Parish") may contract with a company to provide solid waste collection and disposal services for households in the City of New Roads. Your opinion request states that the Parish currently has a contract with Progressive Waste Solutions of Louisiana to provide residential solid waste collection and disposal for all parish residents. This service is funded through a parish-wide one cent sales and use tax and through a fee to parish residents.¹ The contract between the Parish and Progressive Waste Solutions of Louisiana expires on January 31, 2014, and the Parish is currently negotiating a renewal of the contract. On October 16, 2013, the Mayor of the City of New Roads sent correspondence to the Parish President informing her that the New Roads City Council did not adopt a resolution authorizing the Parish Police Jury to include households in the City of New Roads in the contract for parish-wide collection and disposal of solid waste. The Mayor indicated that the City was considering managing the collection and disposal of solid waste for residents of the City of New Roads. You have asked whether the Parish is prohibited from contracting with a vendor to provide waste collection and disposal services for households in the City of New Roads.

The City of New Roads, an incorporated municipality within the Parish, was chartered by Act 34 of the 1875 Louisiana Legislative Session and operates under a legislative charter. The Louisiana legislature has granted the City of New Roads the power and

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On September 10, 1985, the voters of Pointe Coupee Parish passed a one cent sales and use tax of which, not less than twenty percent (20%) of the proceeds must be dedicated and used for capital improvements, maintenance, and operation of a comprehensive parish wide solid waste and non-hazardous waste disposal program. See Chapter 13, Article III of the Pointe Coupee Parish Code of Ordinances.

authority to perform any function necessary for the management of its affairs which is not denied by law.² Article 1 of the City of New Roads Charter ("Charter") sets forth the corporate boundaries of the City of New Roads and states the City shall be a corporation and body politic and shall have:

all the powers, rights, privileges, immunities, authorities, and duties heretofore possessed in accordance with all constitutional and statutory provisions with respect to Louisiana municipalities. Said city, through its governing authority, is further authorized to exercise any power and perform any function necessary, requisite, or proper for the management of its affairs not denied by law, including but not limited to the power to levy and collect taxes, incur debt, and issue bonds and other evidences of indebtedness as authorized by law.

Article 12 of the Charter states:

[t]he city council shall have the following powers, duties, and responsibilities: (e) Build and maintain streets, sidewalks, sewerage, gas electric, water, garbage and other utility systems and other public works within and without the city limits; to contract for the purchase and sale of gas, electricity, water and any other such services, systems and works; to build and maintain other public improvements for the benefit of the city; to prescribe the rates at which sewerage, gas, electric, water, garbage, and other utilities, shall be supplied. . . .

Additionally, La. R.S. 33:4169.1 specifically grants to the governing authority of every parish or municipality the power to "engage in the collection and disposal of garbage and trash within its jurisdiction" and the power "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."

The jurisdiction of the City of New Roads is the corporate boundaries set forth in Article 1 of the Charter. The jurisdiction of the Parish extends only to the unincorporated areas of the Parish.³ Accordingly, the incorporated City of New Roads has the authority to create, maintain, and contract for its own waste collection and disposal. The Parish of Pointe Coupee does not have the authority to contract with a vendor to provide waste collection and disposal services for households in the City of New Roads without the authorization of the New Roads City Council⁴ and the signature of the Mayor of New Roads.⁵

² Article 1 of the City of New Roads Charter.

³ See Code of Ordinances Pointe Coupee Sec. 1-11.- Jurisdiction of the Code. "Except as otherwise provided, the provision of this Code shall apply only in the unincorporated areas of the parish."

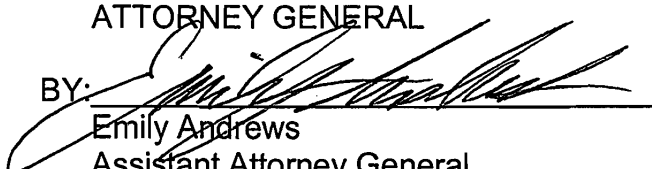
⁴ New Roads Code Art. 12 (h) p. CDA:10.

⁵ New Roads Code Art. 12 (d) p. CDA:9.

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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BY: 

Emily Andrews
Assistant Attorney General

JDC: EGA