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ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
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Opinion 13-0212

Mr. Dean M. Wattigny
Assistant District Attorney
Courthouse Bldg, Suite 200
300 Iberia Street
New Iberia, LA 70560-4583

90-A-1 PUBLIC FUNDS & CONTRACTS

La. Rev. Stat. 33:9020, et.seq.

Costs related to construction within or about the designated geographical area of an economic development district may be included in determining the costs of an economic development project under Louisiana's Cooperative Economic Development Law.

Dear Mr. Wattigny:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. According to your request, the Iberia Parish Government ("Parish") created a tax incremental financing district ("District") pursuant to the provisions of La.Rev.Stat. 33:9038.32. The Parish would like to use District funds in order to reconfigure a busy highway intersection with hopes that it will alleviate traffic congestion. The intersection in question is located outside of the geographical boundaries of the District. However, you indicate that the proposed reconfiguration will greatly benefit the traffic flow into the District. You ask for our opinion as to whether District funds may be used to cover the costs of construction related to the proposed reconfiguration project.

Louisiana's Cooperative Economic Development Law provides that "the maintenance of the economy of the several local governmental subdivisions of the state at a high level is a matter of public policy and the cooperative economic development activities and powers prescribed and conferred by this Chapter are for a public purpose for which public money may be expended." La.Rev.Stat. 33:9020, et.seq. The Cooperative Economic Development Law further provides for the creation of economic development districts and authorizes ad valorem and sales tax increment financing in order to fund economic development projects located within the economic development district. See La.Rev.Stats. 33:9038.32-9038.35.

La.Rev.Stat. 33:9038.35 authorizes economic development districts, or "TIF districts" as they are referred to by statute, to undertake economic development projects located within the economic development district, while La.Rev.Stat. 33:9038.36 sets out the items which may be included in an economic development project and provides, in part, the following:

§9038.36. Items which are included in the costs of an economic development project

The costs of an economic development project incurred by the local governmental subdivision or other authorized entity may include the sum total of all reasonable or necessary costs incurred incidental to or in furtherance of an economic development project, including but not limited to the following, providing that any such costs are reasonably related or attributable to an approved economic development plan:

* * *

(5) Costs of construction within or about an economic development district of public improvements, specifically approved by the local governmental subdivision or other authorized entity, including but not limited to buildings, structures, works, utilities, or fixtures.

* * *

Thus, it appears that the plain language of La. Rev. Stat. 33:9038.36 specifically allows the costs of construction "within or about" an economic development district to be included in the total costs of an economic development project. It is our understanding that the proposed reconfiguration project will span an area that lies both within and outside the economic development district. You have indicated that at all times the construction undertaken in connection with the proposed reconfiguration project will take place in close proximity to geographical boundaries of the District, with the farthest point being approximately 950 feet from the northern boundary of the District. You further state that the proposed reconfiguration project has been approved by the Parish and the District and will directly benefit the citizens and businesses located within the District by alleviating traffic congestion into the District.

Based on these assurances and provided the requirements and provisions of Louisiana's Cooperative Economic Development Law are followed, it is the opinion of this office that the costs related to proposed reconfiguration project, which will take place both "within and about" the designated geographical area of the District, may be included in determining the costs of an economic development project under Louisiana's Cooperative Economic Development Law.

We trust this adequately responds to your request. If you should have any questions about the response contained herein, please feel free to contact our office.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:

MICHAEL J. VALLAN
Assistant Attorney General

JDC/MJV/chb