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State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

July 16, 2015
OPINION 15-0073

Hon. James E. Mayo
Mayor, City of Monroe
Post Office Box 123
Monroe, LA 71210

90-A-1 PUBLIC FUNDS & CONTRACTS

La. R.S. 33:9020 *et seq.*

The I-20 Economic Development District ("District") may enter into a cooperative endeavor agreement to provide funds to Delta Community College to assist in the construction of an Advanced Training Center to be located within the District provided the District receives at least equivalent value in exchange for its contribution.

Dear Mayor Mayo:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. You have asked for our opinion as to whether the I-20 Economic Development District ("District") may enter into an agreement with Delta Community College ("Delta"), whereby the District would provide funds to Delta to assist in the construction of an Advanced Training Center. According to your request, the Advanced Training Center will be physically located within the geographical boundaries of the District, and the funds in question were derived from sales tax increment financing in accordance with La. R.S. 33:9033.

It is our understanding that the Advanced Training Center will contain petitioned off space to install and train potential employees with proprietary equipment, a clean lab training facility, additional classrooms, and economic development space. Your request further indicates that the Advanced Training Center would serve as a one stop shop for companies wanting to move or expand within the District. You believe the construction of the Advanced Training Center qualifies as an economic development project, and accordingly ask for our opinion as to whether District funds may be used to assist in the construction of the Advanced Training Center.

As noted in your request, the City of Monroe established the District pursuant to the provisions of Louisiana's Cooperative Economic Development Law, La. R.S. 33:9020 *et seq.* Louisiana's Cooperative Economic Development Law provides for the creation of economic development corporations, as well as economic development districts. La. R.S. 33:9023, La. R.S. 33:9038.32. Louisiana's Cooperative Economic Development Law further generally authorizes local political subdivisions to issue revenue bonds, payable from sales tax increments, in order to finance economic development projects. La. R.S. 33:9033.

La. R.S. 33:9038.34 further governs sales tax increment financing by an economic development district, and authorizes the issuance of revenue bonds payable from

revenues generated by economic development projects located within the economic development district. Subsection (M) of La. R.S. 33:9038.4 defines "economic development project," and provides the following:

M. For the purposes of this Section, the term "economic development project" shall mean and include, without limitation, any and all projects suitable to any industry determined by the local governmental subdivision or, as appropriate, the issuers of revenue bonds, to create economic development. Economic development projects shall include, without limitation, public works and infrastructure and projects to assist the following industries within the meaning of Article VI, Section 21 of the Louisiana Constitution:

- (1) Industrial, manufacturing, and other related industries.
- (2) Housing and related industries.
- (3) Hotel, motel, conference facilities, and related industries.
- (4) Commercial, retail, and related industries.
- (5) Amusement, places of entertainment, theme parks, and any other tourism-related industry.
- (6) Transportation-related industries.
- (7) Hospital, medical, health, nursery care, nursing care, clinical, ambulance, laboratory, and related industries.
- (8) Any other industry determined by the local governmental subdivision or issuer of revenue bonds, as appropriate, whose assistance will result in economic development.

La. R.S. 33:9038.34(M) limits the definition of an economic development project to only those projects that are "suitable to any industry determined by the local governmental subdivision...to create economic development." Furthermore, La. R.S. 33:9038.34(M) goes on to list certain suitable industries for which projects would qualify as an economic development project.

Therefore, if the District believes that the Advanced Training Center will serve to further an industry it determines will create economic development, or serve to further any of the industries specifically mentioned in La. R.S. 33:9038.34(M), and the District has a demonstrable, objective, and reasonable expectation of receiving at least equivalent

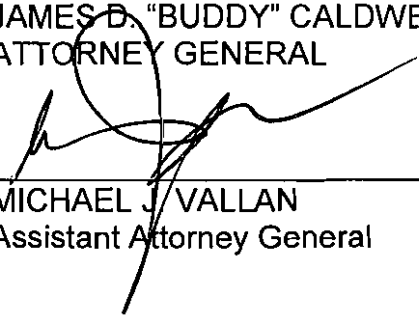
value in exchange for its proposed contribution, then it is the opinion of this office that the construction of the Advanced Training Center qualifies as an economic development project under La. R.S. 33:9038.34(M).¹ Pursuant to La. R.S. 33:9038.36, District funds may be used to assist in the construction of the Advanced Training Center.

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/as

¹ See *Board of Directors of the Industrial Development Board of the City of Gonzales, Louisiana, Inc. v. All Taxpayers, Property Owners, Citizens of the City of Gonzales, et al.*, 2005-2298 (La. 9/6/06), 938 So.2d 11 (the "Cabela's" case). In light of the Louisiana Supreme Court's decision in Cabela's, this office has consistently opined that in order for an expenditure of public funds to be permissible under La. Const. art. VII, § 14(A), the public entity must have the legal authority to make the expenditure and must show: (i) a public purpose of the expenditure or transfer that comports with the governmental purpose for which the public entity has legal authority to pursue; (ii) that the expenditure or transfer, taken as a whole, does not appear to be gratuitous; and (iii) that the public entity has a demonstrable, objective, and reasonable expectation of receiving at least equivalent value in exchange for the expenditure or transfer of public funds.