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Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
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June 5, 2023
OPINION 23-0063

Honorable Archie Chaisson, III
Lafourche Parish President
Post Office Drawer 5548
Thibodaux, LA 70302

90 -A-1 PUBLIC FUNDS & CONTRACTS

La. Const. art. VII, § 14
La. R.S. 28:470.11

La. R.S. 33:1236

The Lafourche Parish Government may enter into a cooperative endeavor agreement with either the Lafourche ARC Taxing District or the Lafourche ARC private non-profit corporation, separately or in combination, for a public purpose for use of tax proceeds received by the parish that comports with the language of the tax call.

Dear President Chaisson:

You have requested an opinion from our office regarding whether the Lafourche Parish Government may enter into a Cooperative Endeavor Agreement (hereinafter "CEA") with the Lafourche ARC Taxing District or Lafourche ARC and share a portion of the revenue the Parish receives from the 2017 Tax Renewal. The purpose of the CEA is to support "Lafourche ARC's continued mission of providing services, training, advocacy, resources, and community connection to individuals with developmental disabilities."¹ Your request has been assigned to me for research and reply.

Lafourche Parish government may enter into a CEA with other political subdivisions or any public or private association, corporation, or individual for a public purpose.² The CEA agreement with either must contain a public purpose in order for it to comply with La. Const. art. VII, § 14(C).

The Lafourche ARC Taxing District was created pursuant to La. R.S. 28:470.11 and is a political subdivision of the state.³ The District's primary objective and purpose is to provide "services, training, advocacy, resources, and community connections to individuals with developmental disabilities."⁴ It has the authority to levy and collect ad valorem taxes for appropriate purposes but such funding should be supplemental to and not in lieu of such training, advocacy, resources and community connections provided by other private and public entities located within the parish of Lafourche.⁵ The District has the power "to enter into contracts, agreements, or cooperative endeavors with the state and its political subdivisions or political corporations and with any public or private association, corporation, business entity, or individual."⁶

¹ December 12, 2022 correspondence from Archie Chaisson, III to the Office of the Attorney General.

² La. Const. art. VII, § 14(C).

³ La. R.S. 28:470.11(A).

⁴ La. R.S. 28:470.11(C).

⁵ La. R.S. 28:470.11(I).

⁶ La. R.S. 28:470.11(E)(6).

Lafourche ARC is a private nonprofit corporation established in 1963. According to information provided to this office by Lafourche ARC, it provides services and activities “to eligible persons with Mental Retardation or a [*sic.*] Developmental Disabilities, including those persons who are seniors or the elderly.”⁷ Some services and activities provided by Lafourche ARC are transportation, meals/food preparation, medication administration, health assessments including monitoring a person’s overall health status, music/movement therapy, exercise and yoga, nutrition education, linking persons to other community services as needed, provide education and training, as well assistance with activities of daily living such as bathing, grooming, toileting, and hygiene.⁸ In addition, Lafourche ARC provides community services in Terrebonne, Assumption, St. Mary, St. James, St. John, and St. Charles parishes.⁹

On November 18, 2017, the voters of Lafourche Parish authorized a renewal of the levy and collection of a tax for public health purposes so that the proceeds may be used:

for the purpose of acquiring, constructing, improving, maintaining operating and/or supporting public facilities, works and/or improvements in the Parish, including equipment, furnishings and supplies, for the following purposes in the percentages set forth: . . . 2) 51%- public health, including health units, buildings, services and activities and senior citizen programs and services, and public buildings (other than library facilities), provided, however, at least one-half of said percentage shall be budgeted for public health purposes.¹⁰

Here, we first note, as always, that “[t]he proceeds of any special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied.”¹¹ The Louisiana Supreme Court has consistently “interpreted the constitution to prohibit the use of dedicated and special taxes for purposes other than those for which they were levied.”¹²

Lafourche Parish desires to contract with either the District or Lafourche ARC to “provide services, training, advocacy, resources, and community connections to individuals with developmental disabilities.”¹³ We note the purpose stated in your opinion request is broad and undefined, and a CEA would need to clearly define the purpose of the funding including what services, training, advocacy and resources will be provided in Lafourche Parish to ensure that tax proceeds are used exclusively for the objects and purposes for which the tax was levied.

⁷ February 1, 2023 correspondence from Lafourche ARC to the Office of the Attorney General.

⁸ *Id.*

⁹ LAFOURCHE ARC, *Who We Are*, <https://www.lafourchearc.org/who-we-are> (last visited May 24, 2023).

¹⁰ LOUISIANA SECRETARY OF STATE, November 18, 2017, Parish Election Results, <https://voterportal.sos.la.gov/graphical> (last visited May 24, 2023).

¹¹ La. R.S. 39:704.

¹² *W. Feliciana Par. Gov't v. State*, 2019-00878, (La. 10/11/19); 286 So.3d 987, 996; *City of New Orleans v. Louisiana Assessors' Ret. & Relief Fund*, 2005-2548, (La. 10/1/07); 986 So.2d 1, *on reh'g* (Jan. 7, 2008); *Orleans Parish School Board v. City of New Orleans*, 238 La. 738, 116 So.2d 505 (La.1959).

¹³ December 12, 2022 correspondence to the Louisiana Attorney General.

Next, we address whether Lafourche Parish can contract directly with Lafourche ARC or whether they must contract with the District. Lafourche Parish has the power to provide for the support of the poor and necessitous within the parish by taxation or otherwise; including the power to assist the unskilled poor; low-income persons; disadvantaged persons; unemployed persons through services and recreation for persons age sixty, and over.¹⁴ The Parish also has the authority to levy a tax for the creation and support of public health centers in the parish.¹⁵ Finally, the Parish has the authority to support programs for persons with intellectual or mental disabilities within the parish, including the authority to make grants or subsidies to private or public nonprofit associations or corporations or organizations for use solely in programs of cooperative endeavor to aid persons with intellectual or mental disabilities.¹⁶

Based on the information received by this office, both Lafourche ARC Taxing District and Lafourche ARC non-profit corporation assist individuals with developmental disabilities. Lafourche ARC also assists senior citizens and the elderly. Therefore, Lafourche Parish Government may enter into a CEA with either Lafourche ARC Taxing District or Lafourche ARC non-profit corporation separately, or in combination, consistent with the purposes the parish has the authority to pursue.

Based on the foregoing, it is the opinion of our office that the Lafourche Parish Government may enter into a cooperative endeavor agreement with either the Lafourche ARC Taxing District or the Lafourche ARC private non-profit corporation, separately or in combination, for a public purpose and may use the tax proceeds from the 2017 Tax Renewal for the objects and purposes for which the tax was levied.

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

With best regards,
JEFF LANDRY
ATTORNEY GENERAL

BY: 
Brett A. Robinson
Assistant Attorney General

JL/BAR

¹⁴ La. R.S. 33:1236(11) and Section 2(A) of the Lafourche Parish Home Rule Charter.

¹⁵ La. R.S. 33:1236(27) and Section 2(A) of the Lafourche Parish Home Rule Charter.

¹⁶ La. R.S. 33:1236(42) and Section 2(A) of the Lafourche Parish Home Rule Charter.