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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
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OPINION 26-0013

Mr. Brandon W. Creekbaum
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Monroe, LA 71210

90-A-1 – PUBLIC FUNDS & CONTRACTS

La. Const. art. VII, § 14
La. R.S. 33:9020 *et seq.*

Addresses the use of state sales tax increment financing within the Garrett Road Economic Development Area in Monroe, Louisiana.

Dear Mr. Creekbaum:

On behalf of the City of Monroe (“City”), you have requested an opinion from this office concerning the lawful use of state sales tax increment revenues by the I-20 Economic Development District (“District”). The District is seeking to allocate said revenues to fund a residential development outside of, but adjacent to, a designated economic development area within the City.

Question 1: Under Louisiana’s Cooperative Economic Development Law, La. R.S. 33:9020, *et seq.*, does participation by the I-20 Economic Development District in a residential subdivision development constitute a lawful “economic development project” or “economic development activity”?

Conclusion: Yes. If the I-20 Economic Development District believes that such participation 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), then such participation would qualify as an economic development project under Louisiana’s Cooperative Economic Development Law.

As noted in your request, the District entered into a cooperative endeavor agreement with a private developer to fund public infrastructure improvements associated with a residential subdivision located outside of, but adjacent to, the designated economic development area established by the District. Such improvements associated with the residential development include drainage facilities, internal and access roadways, water distribution facilities, wastewater collection facilities, and related professional engineering and environmental services.

Louisiana’s Cooperative Economic Development Law, La. R.S. 33:9020, *et seq.*, provides, in pertinent part:

The maintenance of the economy of the several local governmental subdivisions of this 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. R.S. 33:9021. 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. La. R.S. 33:9038.32-9038.35. Subsection (M) of La. R.S. 33:9038.34 defines “economic development project,” and provides the following:

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 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 or revenue bonds, as appropriate, whose assistance will result in economic development.

If the District believes that public infrastructure improvements associated with the residential subdivision development 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 something real and substantial in exchange for the proposed funding, then it is the opinion of this office the public infrastructure improvements associated with the development of a residential subdivision qualifies as an economic development project under La. R.S. 33:9038.34(M).¹

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

Question 2: May the I-20 Economic Development District utilize state sales tax increment financing to fund a residential subdivision infrastructure project physically located outside of, but adjacent to, the designated economic development area?

Conclusion: Yes. Provided the requirements and provisions of Louisiana's Cooperative Economic Development Law are followed, the costs related to construction technically outside but adjacent to the Garrett Road Economic Development Area may be funded through state sales tax increment financing as provided for in La. R.S. 33:9035.

This office has previously opined on costs associated with economic development projects in close proximity to, although outside the geographical boundaries of an economic development area. In particular, La. Atty. Gen. Op. No. 09-0024 addressed this very issue for the City and the specific economic development area you have inquired about, the Garrett Road Economic Development Area ("Development Area"). Within that opinion, the City sought clarification on whether sales tax increment financing could be used to fund economic development projects that would be constructed near but technically outside of the Development Area (approximately 500 feet from the northern boundary of the Development Area).

We first note that the City provided various assurances and information concerning their belief that the projects quailed as economic development projects under Louisiana's Economic Development Law. As such, the analysis provided within La. Atty. Gen. Op. 09-0024 focused solely on the funding of said projects and not whether such projects were permissible. This office opined that La. R.S. 33:9035 sets out the items which may be included in an economic development project and provides, in part, the following:

The costs of an economic development project incurred by the local governmental subdivisions in accordance with R.S. 38:2181 *et seq.* pertaining to the letting of public contracts 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 area of public improvements, including but not limited to buildings, structures, works, utilities, or fixtures, provided only to the extent such costs are incurred by the local governmental subdivision directly, or on behalf of the

public entity has the 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 something real and substantial in exchange for the expenditure or transfer of public funds.

local governmental subdivision providing for a cooperative endeavor as defined in this Chapter.

La. Atty. Gen. Op. 09-0024. As such, the plain language of La. R.S. 33:9035 specifically allows the costs of construction “within or about” an economic development area to be included in the total costs of an economic development project. In La. Atty. Gen. Op. No. 09-0024, this office concluded that, based off said plain language above, costs related to construction within or about, although technically outside, the designated geographical area may be funded with sales tax increment financing as provided for under La. R.S. 33:9038.34.

Here, the proposed economic development project would be outside of, but adjacent to, the Development Area. While your request does not specify the distance from the proposed project to the Development Area, we take adjacent to mean directly adjoining or “having a common endpoint or border” with the Development Area.² We see no reason to reach a different conclusion than previously rendered in La. Atty. Gen. Op. No. 09-0024, and it is the opinion of this office that, provided the requirements and provisions of Louisiana’s Cooperative Economic Development Law are followed, the costs related to construction within or about, but technically outside, the Garrett Road Economic Development Area may be funded through state sales tax increment financing as provided for under Louisiana’s Economic Development Law.

Question 3: Is the District limited to certain types of economic development projects it can assist with or fund under Louisiana’s Economic Development Law based on the scope of projects approved by the Joint Legislative Committee on the Budget when it authorized the City of Monroe to utilize sales tax increment financing in designated economic development areas?

Conclusion: No. The resolution adopted by the Joint Legislative Committee on the Budget authorizes the use of state sales tax increment financing within the Garrett Road Economic Development area for several purposes, including the funding of any economic development project authorized under Louisiana’s Economic Development Law.

You ask for further clarification regarding the Joint Legislative Committee on the Budget’s (“JLCB”) approval for the use of sales tax increment financing by the City and whether such approval limits the scope of approved economic development projects the District may pursue.

In 1995, the City established the Development Area to facilitate economic development through infrastructure enhancements aimed at accommodating consumers who support businesses within the economic development area and to encourage other businesses to locate therein.³ That same year, JLCB adopted a resolution approving the

² See <https://www.meriam-webster.com/dictionary/adjacent>, accessed 4/17/2026.

³ See City of Monroe Ordinance No. 9553, adopted November 14, 1995.

use of state sales tax increments in designated areas of the City, including the Garrett Road Economic Development Area, for economic development projects.⁴ Following JLCB approval, the City and State entered into a cooperative endeavor agreement to implement the sales tax increment financing only for economic development projects approved by JLCB.⁵

The resolution adopted by JLCB authorizing the City to utilize tax increment financing within the designated economic development areas states such authorization is for “the purpose of paying debt service and other requirements relative to sales tax bonds of the City issued pursuant to the *Act or otherwise to fund economic development project costs as authorized by the Act and specifically the items described in Exhibit A hereto.* . . .” (emphasis added). The resolution authorized such tax increment financing for a “period equal to the shorter of (i) the period during which any Bonds are outstanding or (ii) twenty-five (25) years calculated from the date of [the] resolution.”

Exhibit A of the resolution adopted by JLCB provides a project description for two different economic development areas, one of which is the Garrett Road Economic Development Area. Within that particular economic development area, the project description consists of clearing, grubbing, and constructing frontage roads along I-20, upgrading the Nutland Road overpass, renovating the Garrett Road overpass and interchange, and installing a new overpass between Garrett Road and Millhaven Road.

It appears, based on the plain language of the 1995 resolution, that JLCB approved the use of tax increment financing for two (2) separate purposes: the items specifically described in Exhibit A concerning infrastructure improvement and construction along I-20 **and** any other economic development project authorized under Louisiana’s Economic Development Law. Further, this office has previously determined that the District can utilize tax increment financing approved by JLCB, by the same resolution examined above, to fund economic development projects not specifically listed within Exhibit A of said resolution. La. Atty. Gen. Op. No. 15-0073. In La. Atty. Gen. Op. No. 15-0073, this office concluded that the District could assist with funding the construction of an Advanced Training Center in conjunction with Delta Community College. The Advanced Training Center consisted of space to train potential employees with proprietary equipment, a clean lab training facility, additional classrooms, and economic development space. The Advanced Training Center contemplated within La. Atty. Gen. Op. No. 15-0073 certainly could not fall into the list of projects or purposes within Exhibit A of the JLCB resolution. Instead, the project was determined to be permissible under Louisiana’s Economic Development Law’s definition of “economic development project” contained within La. R.S. 33:9038.34, a use directly authorized by the resolution approved by JCLB.

In 2019, one year before the expiration of the original 1995 resolution approved by JLCB, the Louisiana Legislature adopted Act 405 of the 2019 Regular Legislative Session, which allowed cooperative endeavor agreements executed prior to July 1, 1997,

⁴ See Joint Legislative Committee on the Budget Resolution, adopted September 13, 1995.

⁵ See Garrett Road Economic Development Area Cooperative Endeavor Agreement between the City of Monroe and the Louisiana Department of Revenue and Taxation, executed December 27, 1995.

to continue utilizing state sales tax incremental financing through December 31, 2033, provided JLCB granted such approval. The City applied to JLCB to extend the term of the cooperative endeavor agreement already in place with the State, and, on August 13, 2019, JLCB adopted a resolution supplementing its prior approval and authorized the continued use of state sales tax increment financing within the Development Area through December 31, 2033. The purposes for the use of state sales tax increments authorized by JLCB through the new resolution were for “paying debt service and other requirements relative to sales tax bonds of the City issued pursuant to the Act or other applicable statutory authority to fund economic development project costs as authorized by the Act”

Here, the current authorization provided by JLCB is essentially the same as the authorization it provided through the original 1995 resolution. Absent any specific mention of project descriptions, the current resolution again authorizes the use of state sales tax increment financing for any economic development project costs authorized under Louisiana’s Economic Development Law. As such, it does not appear that the District is in any way limited by the approval granted by JLCB for the use of state sales tax increment financing. The resolution adopted by JLCB authorizes such use to fund any economic development project costs authorized by Louisiana’s Economic Development Law.

Question 4: May the City of Monroe utilize bond proceeds issued for economic development projects within the Garrett Road Economic Development Area to fund a residential subdivision infrastructure project?

Conclusion: Yes. Provided the requirements and provisions of Louisiana’s Cooperative Economic Development Law are followed, a residential subdivision infrastructure project can be funded with the Series 2019 Bond proceeds issued by the City of Monroe.

Following JLCB’s 2019 approval and an amended cooperative endeavor agreement between the City and the State acknowledging said approval, the City issued new sales tax increment revenue and refunding bonds secured by state sales tax increment revenues generated within the Development Area (the “Series 2019 Bonds”). The Series 2019 Bonds have already been utilized by the District to fund projects in the Development Area, but you are inquiring whether the residential subdivision infrastructure project discussed above is eligible to be funded with these same proceeds.

The Louisiana Supreme Court has confirmed that dedicated tax increment revenues must be used strictly in accordance with their authorized purposes. *Denham Springs Econ. Dev. Dist. v. All Taxpayers, Prop. Owners & Citizens of Denham Springs Econ. Dev. Dist.*, 2005-1684 (La.App. 1 Cir. 8/25/05); 927 So.2d 328, *writ granted*, 2005-2274 (La. 4/17/06); 945 So.2d 689, and *aff’d*, 2005-2274 (La. 10/17/06); 945 So.2d 665. Through the resolution adopted by the City for the issuance of the Series 2019 Bonds, the purpose for the issuance of the bonds was for, among other purposes, “financing costs of economic development projects, including, without limitation, the repair,

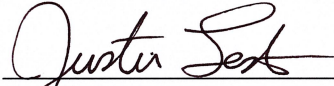
construction, reconstruction, or relocation of public streets, highways, bridges, drainage, sewers, lighting, etc., within the Garrett Road Economic Development Area”⁶

While the authorized purpose of the Series 2019 Bond proceeds does provide an illustrative list of the *types* of economic development projects that can be funded, it is not restrictive in the sense that those types of economic development projects are the only such projects that can be funded with the proceeds. Instead, the authorization for the use of the bond proceeds is simply and generally to finance the cost of economic development projects. Subject to the District’s belief that a residential subdivision infrastructure project qualifies as an economic development project under Louisiana’s Economic Development Law as discussed above, it appears such a project can be funded with the Series 2019 Bond proceeds. However, we recommend the City consult with its bond counsel on such a use of the proceeds for further clarification on whether or not such a use would violate any bond covenants not considered by this opinion.

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

With best regards,

LIZ MURRILL
ATTORNEY GENERAL

BY: 
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LM/JHL

⁶ See City of Monroe Resolution No. 7494, adopted July 9, 2019.