"Date"

Mr. Michael E. Kramer
Assistant District Attorney
5TH Judicial District
6658 Kinloch Street
Winnsboro, LA 71295

RE: Ethics Board Docket No. 2021-030

Dear Mr. Kramer:

The Louisiana Board of Ethics, at its March 5, 2021 meeting, considered your request for an advisory opinion as to whether Franklin Parish could enter into a cooperative endeavor agreement with an employee of Franklin Parish and his immediate family members or alternatively whether he and his immediate family could donate dirt and a right-of-way to the parish.

FACTS PROVIDED

You provided that the Franklin Parish Police Jury would like to enter into a cooperative endeavor agreement with a parish employee and his immediate family members for a parish project benefitting the public as a whole with no benefit to the parish employee or his immediate family members. You stated that the Franklin Parish Police Jury applied for and received $250,000 in Capital Outlay funds to repair the drainage structure of Bayou Macon Cut-Off No. 3 which will revitalize the waterbody and promote both personal and recreational enjoyment for the public. You stated that in order to access the drainage structure it is necessary to clear trees and debris and provide dirt for build-up of the project area. You stated that Kent Thornton has offered to provide dirt and his wife and daughter have offered to allow the parish to clear the necessary trees and debris in order to access the drainage structure and provide for build-up and bury debris on his property. You stated that Kent Thornton is employed by Franklin Parish as an equipment operator.

You further provided that in the event that it is not permissible under the Code of Governmental Ethics for Kent Thornton and his immediate family members to enter into a cooperative endeavor agreement with Franklin Parish, Kent Thornton would like to donate dirt to the parish for the project and his wife and daughter would like to donate the right of the parish to use their property to allow the clearing of trees and debris to access the drainage structure.

LAW

La. R.S. 42:1113A(1)(a) prohibits a public servant, excluding any legislator and any appointed member of any board or commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such a public servant's immediate family, or legal entity in which he has a controlling interest from bidding on or entering into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

La. R.S. 42:1102(2)(a)(vi) defines "agency of public servants of political subdivisions" to mean the agency in which the public servant serves.

DRAFT
This is a draft opinion and is not a conclusion of the Louisiana Board of Ethics.
No any statement on the facts or conclusions. The analysis is provided for discussion purposes only.
Subject to change at the meeting of the Board of Ethics at which this matter is considered.

La. R.S. 42:1123(30) allows a public servant or a member of his immediate family to donate services, movable property, or funds to his agency.

CONCLUSION

The Board concluded and instructed me to inform you, the Code of Governmental Ethics (Ethics Code) would prohibit Franklin Parish from entering into a cooperative endeavor agreement with Kent Thornton and members of his immediate family, since they are prohibited from entering into a contract, subcontract, or other transaction that is under the supervision or jurisdiction of his agency. However, Kent Thornton's wife and daughter would not be prohibited from donating a right-of-use to the parish to allow clearing of trees and debris to access the drainage structure, since they are not prohibited from donating services, movable property, or funds to his agency under Section 1123(30). Further, Kent Thornton would not be prohibited from donating dirt for the build-up of the project location since dirt would be considered to be a movable and allowed by Section 1123(30).

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Sincerely,

LOUISIANA BOARD OF ETHICS

Gregory L. Thibodeaux
For the Board

DISCLAIMER
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No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only,
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