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December 21, 2023

Meredith D. Bush, AICP
Clark Partington Attorneys at Law
125 E Intendencia St Fl 4
Pensacola, FL 32502-5805

Dear Ms. Bush,

This office received your letter requesting a legal opinion on behalf of the Escambia County Children's Trust council on children's services" ("Trust"). In it, you ask substantially the following questions:

Does section 125.901(2)(a), Florida Statutes, permit the Trust to allocate and provide tax funds to the City of Pensacola so that the City may purchase the Morris L. Eaddy Lakeview Activity Center for the City's use, in part—both through programming implemented by its Parks and Recreation Department and in collaboration with lessors Community Health Northwest Florida (a 501(c)(3) non-profit community health center) and Lifeview Group (a Florida limited liability company)—for operation as a resource center focused on providing: (1) healthcare for children and families and (2) adult, youth, or family activities?

In the alternative, does section 125.901(2)(a), Florida Statutes, permit the Trust to purchase the Morris L. Eaddy Lakeview Activity Center and then donate it to the City of Pensacola with a deed restriction stating that the function of the property is to serve as a children's resource center?

In sum

Section 125.901(2), Florida Statutes ("Children's services; independent special district; council; powers, duties, and functions; public record exemption"), does not authorize the use of tax funds in the manner and for the purposes described in your letter. Therefore, the Trust may neither allocate and provide tax funds to the City of Pensacola to purchase the Morris L. Eaddy Lakeview Activity Center ("Center") nor use tax funds to purchase the Center and then donate it to the City of Pensacola with a deed restriction.

Background

The Escambia Children’s Trust is an independent special taxing district created to provide children’s services pursuant to section 125.901, Florida Statutes, and Escambia County Ordinance No. 2020-22 (“Ordinance”). As approved by a majority of the qualified electors of Escambia County, which voted to adopt the Ordinance in a November 3, 2020, referendum, the boundaries of the District are “coterminous with the boundaries of Escambia County,” and the “governing body of the District” is “a board of directors to be known as the Escambia County Children’s Trust [C]ouncil on children’s services.”

In providing for the powers and functions of the Trust, the Ordinance mirrors the provisions contained in section 125.901(2)(a), enumerating verbatim the powers and functions set forth in that section. With respect to the purchase of real property, it provides that the Trust may, with certain funding restrictions, “buy such real estate . . . as [is] needed to execute the foregoing powers and functions.” To pay for the Trust’s authorized activities, the statute requires the Trust “to annually levy ad valorem taxes which shall not exceed the maximum millage rate authorized by [section 125.901], subject to the provisions of section 200.065,” which provides the method of fixing millage.

According to information you submitted,¹ the City of Pensacola (“City”) applied to obtain a “Sole-Source Special Community Initiative” grant from the Trust. As described on the Trust’s webpage,² Sole-Source Special Community Initiatives are:

projects that may be implemented by only one organization or partnership that provides specialized services (for example, the Early Learning Coalition, Escambia County Public Schools Foundation, etc.). The proposer may be the only provider of the service or hold a particular contract that enables [it] to provide a service or product that is proprietary or dependent upon the contract (for example, Community Partnership School, Federally Qualified Health Centers, etc.).³

The City proposes to acquire the Morris L. Eaddy Lakeview Activity Center (“Center”) with funding it receives from a Trust grant. The City proposes, thereafter, to have its Parks and Recreation Department use parts of the Center to provide activities for youth, adults, and families and to lease parts of the Center to Community Health Northwest Florida (a 501(c)(3) non-profit community health center) and to Lifeview Group (a Florida limited liability company) to provide, among other potential unspecified services, child and family healthcare.⁴

¹ See letter from Meredith D. Bush to Ashley Moody dated August 16, 2023 at 23-35 (on file with the Office of the Florida Attorney General) (“Bush Letter”).

² See *Special Funding Application Forms*, <https://escambiachildrenstrust.org/application-forms/> (last visited December 21, 2023).

³ This opinion contains no comment regarding whether the project the City proposes might otherwise qualify as a “Sole-Source Special Community Initiative” project.

⁴ See Bush Letter at 23-35.

Analysis

In pertinent part, section 125.901 states that a county may create an independent special district to provide funding for children’s services throughout the county. The governing body of each such district is a council on children’s services. The statute authorizes each council to provide certain, specific services to children;⁵ to “allocate and provide funds for other agencies in the county which are operated for the benefit of children;”⁶ and to “buy such real estate . . . [as is] needed to execute” the council’s described “powers and functions.”⁷ Thus, the statute contains enumerated authorizations tailored to address certain objectives that the Legislature specified. This specificity is consistent with the Legislature’s general view that local government’s authority to create special districts is limited to purposes that the Legislature enumerates.⁸

Resolving your questions requires a determination of whether the Trust may, consistent with its enumerated powers, use tax monies to purchase the Center for the City of Pensacola, either through allocation and provision of funds to the City to use for its described purposes or by purchase and deed-restricted donation of the Center to the City. The plain language of section 125.901 does not authorize the purchase of real property by the Trust for donation to a third party. Instead, the statute contemplates that the Trust may only purchase property *that the Trust needs in the Trust’s* provision and in its maintenance of services for children.⁹ In particular, section 125.901(2)(a)(6) empowers the Trust to “buy such real estate . . . as . . . needed to *execute the foregoing powers and functions,*” all of which enumerate actions the Trust itself undertakes. None of these authorizes the Trust to fund, directly or indirectly, the City’s proposed collaborative undertaking.

Furthermore, the only Trust “power and function” contemplating financial support of third-party agencies is codified at section 125.901(2)(a)(3). That provision authorizes the Trust to “allocate and provide funds for other *agencies in the county which are operated for the benefit of children . . .*” (Emphasis added.) The question, then, is whether the City of Pensacola is deemed, in this instance, to be such an agency. As a municipal corporation, the City has “governmental, corporate and proprietary powers to enable [it] to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.”¹⁰ The City, in proposing to use public tax funds to acquire municipal property for lease, in part, to other entities, is not an “agency in the county which is operated for the benefit of children” as section 125.901 describes.¹¹

⁵ See § 125.901(2)(a)(1),(2), Fla. Stat. (2023).

⁶ § 125.901(2)(a)(3), Fla. Stat. (2023).

⁷ § 125.901(2)(a)(6), Fla. Stat. (2023).

⁸ § 189.031(4)(b), Fla. Stat. (2023) (stating, “[e]xcept as otherwise authorized by general law, only the Legislature may create independent special districts,” and specifying the procedure by which a county may create such a district under section 125.901).

⁹ § 125.901(2)(a)(1),(2), Fla. Stat. (2023).

¹⁰ Art. VIII, § 2, Fla. Const.

¹¹ See § 125.901(2)(a)(3), Fla. Stat. (2023). See also *Martineau v. City of Daytona Beach*, 47 So. 2d 538, 539 (Fla. 1950) (stating that municipal corporations are created for the

Conclusion

Based on the foregoing, unless and until judicially or legislatively determined otherwise, I conclude that section 125.901 neither authorizes the Trust to provide tax funds to the City to purchase the Center for use as described in the City's proposal, nor empowers the Trust to purchase the Center with tax monies and then donate it to the City with a deed restriction limiting the Center's use to the purposes described in the City's proposal.

Sincerely,



Teresa L. Mussetto
Senior Assistant Attorney General

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benefit of the community as a whole and do not belong in the same category as private corporations or persons); *City of Lakeland v. Amos*, 143 So. 744, 745-46 (Fla. 1932) (discussing the varied governmental and proprietary functions municipalities may perform).