

Opinion No. 2010-011

February 5, 2010

Mr. David F. Menz  
Williams & Anderson PLC  
Twenty-Second Floor  
111 Center Street  
Little Rock, Arkansas 72201

Dear Mr. Menz:

You have requested approval, pursuant to the Interlocal Cooperation Act (A.C.A. § 25-19-101 *et seq.*), of a proposed interlocal agreement entitled “Interlocal Cooperation Agreement for Water Transmission Line Construction, Management, and Use and For Purchase and Sale of Potable Water.” The agreement is entered between the Cities of Lavaca and Charleston, Arkansas, the River South Rural Water District, and the Franklin and Sebastian Public Water Authority.

You have submitted a copy of the agreement, under the terms of which the parties agree to cooperatively participate in a project to secure an adequate source of safe, reliable, and affordable potable water for residents and customers of Lavaca, Charleston, and River South.

The Interlocal Cooperation Act requires that interlocal agreements for joint or cooperative action specify the following items:

- (1) The duration of the agreement;
- (2) The purposes of the agreement;
- (3) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for it;

(4) The methods of accomplishing termination of the agreement and for the disposal of property (if any) upon termination;

(5) Any other necessary and proper matters.

A.C.A. § 25 -20-104(c).

In addition, if the interlocal agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, it must specify the following items:

(1) The provision for an administrator or a joint board that will be responsible for administering the joint or cooperative undertaking;

(2) The manner of acquiring, holding, and disposing of real and personal property (if any) used in the joint or cooperative undertaking.

A.C.A. § 25-20-104(d).

I am required by law to review the agreement for the purpose of determining whether it is in proper form, as described above, and is otherwise compatible with the laws of the state.

Having analyzed the agreement you have submitted, I find that it is in proper form and otherwise meets the requirement of law. Accordingly, it is hereby approved as submitted.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL  
Attorney General