

ST. TAMMANY PARISH COUNCIL

RESOLUTION

RESOLUTION COUNCIL SERIES NO: C-3801

COUNCIL SPONSOR: BINDER/BRISTER

PROVIDED BY: LEGAL DEPARTMENT

RESOLUTION TO APPROVE AND AUTHORIZE ST. TAMMANY PARISH GOVERNMENT THROUGH THE OFFICE OF THE PARISH PRESIDENT TO SIGN AND/OR EXECUTE AN ADMINISTRATION AGREEMENT BETWEEN ST. TAMMANY PARISH GOVERNMENT AND STARC OF LOUISIANA, INC. REGARDING THE OBLIGATIONS OF THE PARTIES AS TO THE EXPENDITURE OF THE PARISH’S MENTAL DISABILITIES TAX.

WHEREAS, on October 4, 2008, an election was held and the "Mental Disabilities Tax" was passed by the registered voters of St. Tammany Parish; and

WHEREAS, it is the intent of both the Parish and STARC of Louisiana for the Mental Disabilities Tax to be used by STARC for acquiring, constructing, improving, maintaining and operating authorized activities, services, programs and/or facilities for individuals with mental retardation and/or disabled persons in the Parish and for its other statutory obligations; and

WHEREAS, the Parish and STARC jointly recognize that an Administration Agreement between the Parties to further specify each party’s obligations and the manner in which the revenues from the Mental Disabilities Tax are expended would be in the best interest of the citizens of St. Tammany Parish.

THE PARISH OF ST. TAMMANY HEREBY RESOLVES that St. Tammany Parish Government through the Office of the Parish President is hereby authorized to sign and/or execute an Administration Agreement between St. Tammany Parish and STARC of Louisiana, Inc. regarding each party’s obligations as to the use of the Mental Disabilities Tax Revenues and to take all actions necessary, including entering into all agreements or negotiations in furtherance of the actions authorized herein.

BE IT FURTHER RESOLVED that all acts previously taken by the Office of the Parish President in furtherance of the actions or agreements contemplated herein are hereby ratified and approved.

THIS RESOLUTION HAVING BEEN SUBMITTED TO A VOTE, THE VOTE THEREON WAS AS FOLLOWS:

MOVED FOR ADOPTION BY: _____ SECONDED BY: _____

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS RESOLUTION WAS DECLARED ADOPTED ON THE 5 DAY OF SEPTEMBER , 2013, AT A REGULAR MEETING OF THE PARISH COUNCIL, A QUORUM OF THE MEMBERS BEING PRESENT AND VOTING.

JERRY BINDER, COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

Resolution Administrative Comment

RESOLUTION TO APPROVE AND AUTHORIZE ST. TAMMANY PARISH GOVERNMENT THROUGH THE OFFICE OF THE PARISH PRESIDENT TO SIGN AND/OR EXECUTE AN ADMINISTRATION AGREEMENT BETWEEN ST. TAMMANY PARISH GOVERNMENT AND STARC OF LOUISIANA, INC. REGARDING THE PARTIES OBLIGATIONS AS TO THE EXPENDITURE OF THE PARISH'S MENTAL DISABILITIES TAX.

The Parish seeks to enter into an Administration Agreement with STARC of Louisiana, Inc. for the purpose of acquiring, constructing, improving, maintaining and operating authorized activities, services, programs and/or facilities for individuals with mental retardation and/or disabled persons in the Parish.

**AMENDED AND RESTATED
ADMINISTRATION AGREEMENT BY AND BETWEEN THE ST. TAMMANY
PARISH GOVERNMENT AND STARC OF LOUISIANA, INC.
(Administration of Tax Funds)**

This Amended and Restated Administration Agreement (“**Agreement**”) is made and entered into effective as of _____, 2013 by and between the following parties:

ST. TAMMANY PARISH GOVERNMENT, a political subdivision of the State of Louisiana and the governing authority of St. Tammany Parish, whose mailing address is P.O. Box 628, Covington, LA, 70434, herein appearing by and through Patricia P. Brister, its Parish President, duly authorized (hereinafter referred to as “**Parish**”); and

STARC OF LOUISIANA, INC. (f/k/a St. Tammany Association for Retarded Citizens, Inc.), a non-profit corporation of the State of Louisiana, whose mailing address is 1541 St. Ann Place, Slidell, LA, 70460, herein appearing by and through Diane Baham, its Executive Director, duly authorized (hereinafter referred to as “**STARC**”).

WHEREAS, effective as of February 18, 2009, Parish and STARC entered into an Administration Agreement (the “**Original Agreement**”); and

WHEREAS, Parish and STARC now desire to fully restate the Original Agreement with this Agreement; and

WHEREAS, Parish and STARC jointly recognize and agree that an agreement between the parties to further specify each party’s obligations would be in the best interests of the citizens of St. Tammany Parish.

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained in this Agreement, the parties agree to amend and restate the Original Agreement in its entirety, as follows:

- 1. Mental Disabilities Tax.** On October 4, 2008, an election was held and the following proposition (hereinafter referred to as the “**Mental Disabilities Tax**”) was passed by the registered voters of St. Tammany Parish:

**PROPOSITION NO. 2
(TAX RENEWAL)**

SUMMARY: 10 YEAR 2 MILLS PROPERTY TAX RENEWAL FOR PROGRAMS OF SOCIAL WELFARE TO BE DEDICATED (1) ... AND (2) 50% FOR ACQUIRING, CONSTRUCTING, IMPROVING, MAINTAINING AND OPERATING AUTHORIZED

ACTIVITIES, SERVICES, PROGRAMS AND/OR FACILITIES FOR INDIVIDUALS WITH MENTAL RETARDATION AND/OR DISABLED PERSONS IN THE PARISH.

Shall the Parish of St. Tammany, State of Louisiana (the "Parish"), levy a two (2) mills tax on all the property subject to taxation in the Parish (an estimated \$2,185,400 reasonably expected at this time to be collected from the levy of the Tax for an entire year) for a period of ten (10) years, beginning with the year 2009 and ending with the year 2018, for programs of social welfare with the avails to be dedicated as follows:

...

- (ii) 50% for the purpose of providing funds for acquiring, constructing, improving, maintaining and operating authorized activities, services, programs and/or facilities for individuals with mental retardation and/or disabled persons in the Parish?

2. Obligations of the Parish.

- 2.1 Except as otherwise provided herein, the Parish shall transfer to STARC all of the Mental Disabilities Tax for use by STARC in connection with this Agreement, net of any required administrative costs and expenses incurred by Parish in the collection, accounting, depositing, safeguarding and transmittal thereof.
- 2.2 Parish hereby appoints and authorizes STARC to be the exclusive agent and agency for the administration and operation of all programs and facilities, and for the provision of all activities and services to be acquired, constructed, improved, maintained and operated for the benefit of individuals with mental retardation, developmental disabilities and/or mental disabilities in the Parish of St. Tammany, State of Louisiana, to be funded by the Mental Disabilities Tax.

3. Obligations of STARC.

- 3.1 It is acknowledged that STARC currently operates and administers its own programs, as its sole purpose, for the benefit of individuals with mental retardation, developmental disabilities and/or mental disabilities. It is contemplated by the parties that the programs and facilities to be provided for by the Mental Disabilities Tax shall be used by STARC in conjunction with and as an integral part of STARC's ongoing programs. STARC will have the discretion to incorporate the funds generated by the Mental Disabilities Tax into its ongoing programs, with the addition of new programs and facilities to be implemented within the overall strategies of expansion in the normal course of operations by STARC.

3.2 Expenditures from the Mental Disabilities Tax shall be expended solely in accordance with the tax proposition approved by voters as reproduced above. The Mental Disabilities Tax shall not be used to fund any other purpose not in accordance with the tax proposition for the Mental Disabilities Tax.

3.3 STARC shall establish and maintain a separate bank account into which all funds received from the Mental Disabilities Tax, as well as investment income earned on said monies, shall be deposited.

3.4 Reporting.

3.4.1 No later than sixty (60) days after the end of each calendar quarter, STARC shall provide Parish with a complete explanation and detail supporting STARC's expenditures of the Mental Disabilities Tax proceeds.

3.4.2 No later than _____ of each calendar year, STARC shall provide its proposed budget for the next fiscal year (the "Budget"). Parish will review the Budget and provide written comments within thirty (30) days following receipt of the Budget.

3.4.3 Parish may review each of the foregoing reports and provide written comments within thirty (30) days following receipt of each of the said reports. Failure of Parish to timely provide written comments shall be deemed to be an acceptance of said report. Any dispute as to the form, the cost or expenditure allocation and/or content of the reports by either party can be cause for default as otherwise provided in this Agreement.

3.5 Auditing. STARC shall undergo an annual audit by an independent auditor acceptable to Parish and shall provide a copy of said audit report to Parish within six (6) months following the end of each fiscal year.

3.6 Deliverables. [DOES PARISH WANT TO REQUIRE PERFORMANCE BENCHMARKS?]

4. Term, Termination and Binding Nature.

4.1 This Agreement shall become effective upon full execution by both parties hereto and terminate on December 31, 2018. Only a written agreement between the parties shall further extend the term of this Agreement.

4.2 Time is of the essence and the performance of the terms and conditions hereof shall be held in strict accordance with the times and dates specified herein.

4.3 Should either party resolve that there has been a breach of any obligation(s) as set forth in this Agreement, either party shall cause to be served a notice of default, the purpose of which shall direct the correction of the deficiency within thirty (30) days from receipt of the notice of default. If no or insufficient action is taken by the noticed party after notice of default, either party, upon expiration of time prescribed in the notice to correct the deficiency, may resolve to terminate this Agreement or any provision thereof, at which time this Agreement or such provision shall be declared null and void.

5. Contractual Validity and Miscellaneous Provisions.

5.1 STARC may continue to receive any and all donations and other revenues, as allowed by law, currently received and/or to be received in the future from third parties.

5.2 STARC agrees to indemnify and hold harmless the Parish and its officers, directors, employees, agents, contractors, vendors and all others, of and from and against any and all liability including, but not limited to, claims, demands, losses, suits, damages, judgments, costs and expenses whether, indirect or consequential and including, but not limited to, all fees, expenses and charges of attorneys and other professionals, as well as court costs and expenses, for any actions or inactions arising out of, in connection with, or that may arise as a result of this Agreement, made by third parties whether such claims are made by way of indemnity, contribution, subrogation or otherwise.

5.3 **Entire Agreement.** This Agreement constitutes the entire understanding and reflects the entirety of the undertakings between the parties with respect to the subject matter hereof superseding all prior agreements, whether oral or written. There is no representation of warranty of any kind made in connection with the transactions contemplated hereby that is not expressly contained in this Agreement.

5.4 **No Personal Liability of Individual Representative.** No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, trustee, officer, agent or employee of any corporate party of his individual capacity, and neither of the officers of any party nor any official executing this Agreement shall be personally liable with respect to this Agreement or be subject to any personal liability or accountability under this Agreement by reason of the execution and delivery of this Agreement.

5.5 Notices. Any notice required or permitted to be given under or in connection with this Agreement shall be in writing and shall be either hand-delivered or mailed, postage pre-paid by First Class Mail, registered or certified, return receipt requested, or delivered by private, commercial carrier, express mail, such as Federal Express, or sent by, telecopier or other similar form of electronic transmission confirmed by written confirmation mailed (postage pre-paid by First Class Mail, registered or certified, return receipt requested or private, commercial carrier, express mail such as Federal Express) at substantially the same time as such rapid transmission. All communications shall be transmitted to the address or number set forth below or such other addresses or numbers to be named hereafter designated by a party in written notice to the other party compliant with this section.

St. Tammany Parish Government
Patricia P. Brister, President
P.O. Box 628
Covington, LA 70434

STARC
Diane Baham, Executive Director
1541 St. Ann Place
Slidell, LA 70460

Notice(s) given as provided above shall be deemed given (i) upon delivery, if hand-delivered, (ii) upon the date shown on the return receipt, if sent by registered or certified mail, (iii) upon the date of delivery on a business day between 8:30 am and 4:30 pm local time at the designated address, then on the date of such attempted, but unsuccessful delivery. The address to which notice(s) are to be given to either party may be changed from time to time by a party by providing written notice to the other party of the new address.

5.6 Remedies for Default; Venue; Jurisdiction; and Governing Law. Any claim or controversy arising out of this Agreement shall be resolved as per Louisiana law. Exclusive venue and jurisdiction shall be the 22nd Judicial District Court for the Parish of St. Tammany. The Parties agree that prior to presenting any claim or controversy arising out of this Agreement to the 22nd Judicial District Court, both Parties will participate in non-binding mediation with a mutually agreed upon mediator, each Party to pay their own costs.

6. Ownership of Records. All records, reports, documents and other material delivered to or transmitted to the Parish by Sheriff shall remain the property of Parish and be deemed as “public” for the purposes of disclosure and release.

7. Assignment and Amendment. No party shall assign any interest in this Agreement to any other party, whether by assignment, novation or otherwise. This Agreement may be amended only by the mutual written consent of the parties.

8. Delay in Enforcement and Waiver. Any delay or failure to take any action pursuant to this Agreement or to exercise any right granted herein does not serve as a waiver of the obligation or any other obligation contained herein. In addition, any statement, term or obligation stated herein shall not be construed as a waiver of any remedy or right either Party has as per law.

9. Auditor's Clause.

9.1 Legislative Auditor: The Parties acknowledge and agree that the Legislative Auditor of the State of Louisiana shall have the right to audit all accounts, books and records of the parties regarding this Agreement.

9.2 Parish Auditor: Parish shall have the right, once per calendar year, to reasonably review STARC's supporting data for Developmental Disabilities Tax expenditures to the extent that same have not been previously reviewed by Parish pursuant to this Section. Parish shall provide STARC with thirty (30) days' prior written notice before conducting such review. Parish shall include in its notice a list of documents to be produced for the review. The Parish shall not be limited in its review by the list of documents requested and may request access to other documents or data regarding the Mental Disabilities Tax expenditures. Any information obtained by Parish as a result of the audit shall be treated as confidential, subject to applicable laws, rules, regulations or requirements.

10. Force Majeure. If either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required under this Agreement by reason of strikes, walk outs, labor troubles, inability to procure materials, failure of power, weather, riots, insurrection, terrorism, war or other reason of a like nature not the fault of the party delayed in performing work or doing as required under the terms of the Agreement, then performance of such act or obligation shall be excused for the period of the delay and the period for performance of any such act shall be extended for a period equivalent to the period of such delay.

11. Interpretation. Each party has assisted in the preparation of this Agreement and has had the opportunity to make changes to the language used in this Agreement. As such, in interpreting the meaning of any language contained in this Agreement, the rule of construction that ambiguous language shall be construed against the party drafting the document shall not apply. In the event of a dispute regarding any term contained in this Agreement, both Parties agree that no statement contained herein shall be used as an admission against either Party.

12. Non-Discrimination. All parties agree to comply with the Americans with Disabilities Act of 1990 and all current amendments thereto. All individuals shall have equal access to

employment opportunities available to similarly suited individuals. All parties agree not to discriminate in their employment practices, and will render services under this Agreement without regard to race, color, religion, sex, national origin, veteran status, political affiliation, or disability. Any act of discrimination committed by any party, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this Agreement. All parties agree to abide by the requirements of all local, state, and/or federal law, including but, not limited to, the following: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Act of 1975, and the requirements of the Americans with Disabilities Act of 1990. All parties warrant and guarantee that they are an equal employment opportunity employer. In all hiring or employment made possible by or resulting from this Agreement, there shall not be any discrimination against any person because of race, color, religion, sex, national origin, disability, age or veterans status; and where applicable, affirmative action will be taken to ensure that all employees are treated equally during employment without regard to their race, color, religion, sex, national origin, disability, age, political affiliation, disabilities or veteran status. This requirement shall apply to, but not be limited to, the following: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. All solicitation or advertisements for employees shall state that all applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, disability, age or veteran status.

13. Severability. In the event that any one or more provisions of this Agreement is for any reason held to be illegal or invalid, the parties shall attempt in good faith to amend the defective provision in order to carry out the original intent of this Agreement. If any term or clause herein is deemed unenforceable or invalid for any reason whatsoever, that portion shall be severable and the remainder of this Agreement shall remain in full force and effect.

14. Appearances. The representative of each party herein warrants that they have the requisite authority and permission to enter, sign and bind his office.

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

(Signature page follows.)

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in multiple originals by their hereunder signed officers each in the presence of the undersigned two competent witnesses in the Parish of St. Tammany, State of Louisiana, as of the date first hereinabove set out, after due reading of the whole.

WITNESSES:

**ST. TAMMANY PARISH
GOVERNMENT**

Print Name: _____

By: _____

Patricia P. Brister, President

Date: _____

Print Name: _____

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in multiple originals by their hereunder signed officers each in the presence of the undersigned two competent witnesses in the Parish of St. Tammany, State of Louisiana, as of the date first hereinabove set out, after due reading of the whole.

WITNESSES:

**ST. TAMMANY ASSOCIATION FOR
RETARDED CITIZENS, INC.**

Print Name: _____

By: _____

Diane Baham, Executive Director

Date: _____

Print Name: _____