



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

December 30, 2025

Jennifer Riley Collins, Esq.
Attorney, City of McComb
Post Office Box 667
McComb, Mississippi 39649-0667

Re: Lease of Municipal Property to Non-Profit Organization

Dear Ms. Collins:

The Office of the Attorney General has received your request for an official opinion.

Question Presented

Does the City of McComb (“City”) have the legal authority under Mississippi law to enter a long-term lease of public property with a non-profit organization for nominal consideration of one dollar or other reasonable minimal amount less than fair market value when the City determines that such lease to the non-profit organization will promote and foster the development and improvement of the community and serves the public welfare?

Brief Response

Unless specifically authorized by statute, a municipality is prohibited from granting any donation, which would include leasing property for nominal consideration. However, multiple statutes allow a municipality to lease public property to a non-profit organization for less than fair market value. *See* Miss. Code Ann. §§ 21-7-1(3) (specific to non-profit entities), 21-37-53 (Property Not Used for Governmental Purposes), 57-7-1 (Surplus Land) 21-19-44 (Economic Development Organizations; Funding). Additionally, a municipality must have specific statutory authority, such as that found in Mississippi Code Annotated Section 57-7-1, to enter a long-term lease. Whether any of the referenced statutes are applicable to your factual scenario is a determination to be made by the municipal governing authorities.

Applicable Law and Discussion

According to your request, the City wishes to enter long-term leases with qualified non-profit organizations for nominal consideration. However, questions regarding general procedural

requirements, contract limitations and restrictions, and whether consideration is adequate are not prospective questions of state law and are outside the scope of this opinion.

As to whether a municipality can lease property to a nonprofit for less than fair market value or for nominal consideration, Section 21-17-5(2) prohibits municipalities from granting any donation unless specifically authorized by statute. *See* MS AG Op., *LeSure* at *1 (Dec. 10, 2010) (opining that “[a] municipality may not donate municipal funds or municipal real or personal property to a private nonprofit [sic] corporation without specific statutory authority to do so.”). Section 21-17-1(3) allows municipalities to lease for less than fair market value municipally owned real property to non-profit organizations. Section 57-7-1 also authorizes municipalities to lease certain surplus lands for industrial or commercial purposes. “[S]ales and leases pursuant to Section 57-7-1 do not necessarily require fair market value, but should be made for good and valuable consideration.” MS AG Op., *Griffin* at *2 (Sept. 24, 2025) (internal citations omitted).

Depending upon the specific facts, other statutes may allow the City to lease property to a non-profit organization for less than fair market value or for nominal consideration. *See, e.g.,* Miss. Code Ann. §§ 21-37-53, 21-19-44. Additionally, Sections 21-19-65 and 21-17-1(8) authorize municipalities to make matching donations to non-profit organizations. *See* MS AG Op., *Chambers* at *2 (Sept. 21, 2012) (internal citations omitted) (opining that “Section 21-19-65 authorizes the donation of funds to match any other funds, as well as the provision of ‘in-kind’ services, which includes the donation of office space”). Ultimately, whether any of the referenced statutes apply to your situation is a determination to be made by the City’s governing authorities.

With respect to whether the City can enter a long-term lease with a non-profit organization, it is well settled that municipal governing authorities “may not bind their successors in office by contract, unless expressly authorized by law, because to do so would take away the discretionary rights and powers conferred by law upon successor governing bodies.” *Ne. Mental Health-Mental Retardation Comm’n v. Cleveland*, 187 So. 3d 601, 604 (Miss. 2016). Any long-term contract entered into without express statutory authority is voidable by the successor board. *Id.* This office has previously opined that “a municipality may not rely on the authority in Section 21-17-1 as its [sole] express authority to enter into long-term contracts.” MS AG Op., *Webb* at *2 (Apr. 14, 2017) (internal citations omitted). Section 21-37-53 does allow a municipality to enter into a long-term lease and provides in relevant part:

Any municipality which holds title to property, real, personal, or mixed, which was not purchased with public funds and which is not used for governmental purposes, is hereby authorized to lease same at and for such consideration as the governing authorities may deem proper for a period or periods not to exceed seventy-five years, and may contract with private individuals, firms, or corporations with respect to the use and development thereof.

Which statutes may apply to your scenario is a determination to be made by the governing authorities of the City.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Jennifer Riley Collins, Esq.
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Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION