

Committees:
Business & Industry, Chairman
State Affairs
Redistricting



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Dec 20 2013
OPINION COMMITTEE

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December 20, 2014

The Honorable Greg Abbott
Attorney General of the State of Texas
Attention: Opinions Committee
209 West 14th Street
Austin, Texas 78701

FILE # HL-47484-13
I.D. # 47484

RQ-1174-GA

Re: Request for an Opinion regarding the use of 4B funds

Dear General Abbott:

On behalf of the San Benito Economic Development Corporation and the governing body of the City of San Benito, I ask for your opinion on the following question:

May the San Benito Economic Development Corporation spend 4B sales tax funds to pay for all or part of the cost of a comprehensive plan desired by the City of San Benito and the corporation for planning the future development of the city?

The City of San Benito is a home rule municipality located in Cameron County, Texas. In 1995 it created the San Benito Industrial Development Authority, Inc., pursuant to section 4B of the Development Corporation Act of 1979, as amended. On March 15, 2004, Articles of Amendment were filed with the Secretary of State changing the name of the corporation to the "San Benito Economic Development Corporation, Inc.", which it uses currently. The Articles of Incorporation of the corporation state:

The Corporation is organized exclusively for charitable, religious, educational, or scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, including, but not limited to, collecting and administering sales tax for economic development for the City of San Benito, Texas, in accordance with V.T.C.S. Article 5190.6, Section 4B, the Development Corporation Act of 1979.

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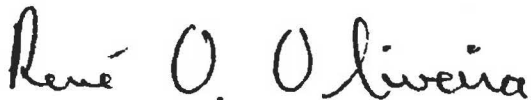
The corporation is governed by a Board of Directors consisting of seven individuals appointed by the City Commission. It has undertaken various projects over the years to foster economic development in the city.

The Board of Directors of the corporation and the governing body of the city recognize the benefit of having a comprehensive plan to guide both bodies in the orderly development of the city. The city's administration made a request to the corporation for funding for the cost of hiring an independent contractor to prepare and produce a comprehensive plan for adoption by the governing body of the city. The "comprehensive plan" would be a long-range development tool for the municipality that would include provisions on land use, economic development, transportation, and public facilities, in accordance with section 213.002 of the Local Government Code. It is anticipated that the comprehensive plan would be used by the corporation and the city to coordinate and guide them in the selection and establishment of development regulations and economic development projects and in making decisions about growth and development. The Plan should provide a summary of the goals, objectives, policies, strategies, programs, and projects that will enable the city and the corporation to work in coordination toward the orderly development of the city.

Please provide your opinion regarding whether this expense is a qualified project that the San Benito Economic Development Corporation may fund from its available 4B sales tax revenues.

Thank you for your kind attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "René O. Oliveira". The signature is written in a cursive style with a large initial "R" and "O".

René O. Oliveira
State Representative
District 37