



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

December 4, 1959

Mr. H. R. Nieman, Jr.
Executive Director
State Building Commission
Austin, Texas

Opinion No. WW-757

Re: Authorization of the State Building Commission to pay the City of Austin for paving its half of the existing thoroughfare and the additional five feet (approximate) inside the State property line in order to render the access completely finished up to the curbing at the west end of the Supreme Court Building.

Dear Mr. Nieman:

You have requested an opinion of this office concerning the Building Commission's authority to pay the City of Austin for paving its half of the existing thoroughfare and the additional five feet (approximate) inside the State property line at the west end of the Supreme Court Building.

Under Section 51-b(c), Article III, Constitution of Texas, the Commission may acquire property and enter into such contracts as it deems necessary to build and equip buildings for the use of State agencies.

"(c) Under such terms and conditions as are now or may be hereafter provided by law, the Commission may acquire necessary real and personal property, salvage and dispose of property unsuitable for State purposes, modernize, remodel, build and equip buildings for State purposes, and negotiate and make contracts necessary to carry out and effectuate the purposes herein mentioned.

...."

In Attorney General's Opinion No. WW-585, when the State Highway Department was confronted with a similar situation, this office held that the authority for the expenditure comes from the Highway Department's capacity as a land owner, and that money could be spent for

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street improvements next to a tract of land just as it could be spent to repair the roof of a building located on that land. Such an expenditure was also upheld for the Texas State Hospitals and Special Schools in Attorney General's Opinion No. S-102 on the basis that it constituted an improvement of the property.

There is no doubt that the Commission can pay for the paving of the five-foot area on State property under Section 51-b(c), Article III of the Constitution of Texas. The only question is whether bids must be taken in accordance with Section 5 of Article 678m of Vernon's Civil Statutes. It is clear, however, that Article 678m applies only to the obtaining of building sites and the construction of buildings on those sites. It would not prohibit the Commission from entering into a contract to pay the City of Austin for paving the five-foot area at the west end of the Supreme Court Building.

It is our opinion that the Building Commission is authorized to enter into a contract with the City of Austin to pave the area outlined in your question.

Of course, the authority to make the expenditure is subject to an appropriation for that purpose. We are of the opinion that the expenditure can be made out of Item No. 10 of the present biennium appropriation to the Building Commission.

SUMMARY

The State Building Commission is authorized to pay its pro rata share of the street paving cost at the west end of the Supreme Court Building and the additional cost of paving the five-foot (approximate) area within the State property line under Section 51-b(c), Article III, Constitution of Texas, and

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Attorney General's Opinions
No. WW-585 and No. S-102.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
John C. Steinberger
Assistant

JSC:ms

APPROVED:

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REVIEWED FOR THE ATTORNEY GENERAL
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