



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

December 12, 1972

Honorable Preston Smith
Governor of Texas
State Capitol Building
Executive Department
Austin, Texas 78711

Opinion No. M- 1278

Re: Several questions relating
to a proposed contract
whereby the Texoma Regional
Planning Commission will
assume operational control
of the Grayson County Airport.

Dear Governor Smith:

Your request for an opinion asks the following questions:

"1. Can the Texoma Regional Planning Commission legally deposit and expend funds belonging to the Grayson County Airport without going through the Grayson County Treasurer's Office?

"2. Can the Executive Director of the Texoma Regional Planning Commission sign and approve checks and warrants instead of the County Treasurer and the County Auditor (where he is authorized to do so on behalf of the Regional Planning Commission)?

"3. What would be the responsibility of the County Auditor as to audit of these funds if received and expended as set out in such a contract?"

Attached to your request is a proposed contract between the Commissioners Court of Grayson County and the Texoma Regional Planning Commission whereby the Texoma Regional Planning Commission assumes operational control of the Grayson County Airport. Your questions arise by virtue of the following provisions in the contract:

"As a condition of the contract a separate account shall be established at the bank designated as the official Grayson County depository. This account shall be designated 'Grayson County Airport Fund-Special Bank Account.' All receipts from airport operations shall be placed in this

fund. All authorized expenditures shall be made from this fund. All checks drawn on this account shall be signed by the Executive Director of the Texoma Regional Planning Commission and the County Clerk of Grayson County or his Deputy. The total expenditures to be made by the Texoma Regional Planning Commission and the Airport Manager shall be determined by a budget submitted for approval to the Commissioners' Court of Grayson County on or before the first day of (August) of each calendar year. Said Texoma Regional Planning Commission shall be charged with the duty of accounting for all receipts and expenditures in regard to the operation of said airport."

The Texoma Regional Planning Commission was organized pursuant to the provisions of Article 1011m, Vernon's Civil Statutes, and such regional planning commission constitutes a political subdivision of this State. Art. 1011m, Sec. 4, Subsec. (a); also Atty. Gen. Opin. No. M-1259 (1972). It is assumed that the funds in question are receipts from airport operations and are not regular county tax monies.

Under the provisions of Article 4413(32c), Vernon's Civil Statutes (Interlocal Cooperation Act), the county and the regional planning commission may enter into contracts for any governmental function or service which the governmental unit is authorized to perform. Subdivisions (b) and (d) of Section 4 of Article 4413 (32c) provide:

"(b) The agreements or contracts may be for the purpose of studying the feasibility of contractual performance of any governmental functions or services or may be for the performance of any governmental functions or services which all parties to the contract are legally authorized to perform, provided such contracts or agreements shall be duly authorized by the governing body of each party to the contract or agreement. An interlocal contract or agreement shall state the purpose, terms, rights, objectives, duties, and responsibilities of the contracting parties. Interlocal contracts and agreements may be renewed annually and shall

specify that the party or parties paying for the performance of governmental functions or services shall make payments therefor from current revenues available to the paying party.

". . .

"(d) The contracting parties to any interlocal contract or agreement shall have full authority to create an administrative agency or designate an existing political subdivision for the supervision of performance of an interlocal contract or agreement and any administrative agency so created or political subdivision so designated shall have the authority to employ personnel and engage in other administrative activities and provide other administrative services necessary to execute the terms of any interlocal contract or agreement."

Pursuant to the provisions of Article 4413(32c), it is our opinion that the Commissioners Court of Grayson County and the Texoma Regional Planning Commission have the authority to enter into the proposed contract attached to your request, and pursuant thereto, the Texoma Regional Planning Commission has the authority to assume the operational control of the Grayson County Airport.

Assuming that the Commissioners Court of Grayson County and the Texoma Regional Planning Commission enter into the proposed contract attached to your request, or a contract containing similar provisions, your questions are answered as follows:

(1) The Texoma Regional Planning Commission may legally deposit and expend funds belonging to the Grayson County Airport without going through the Grayson County Treasurer's Office.

(2) The Executive Director of the Texoma Regional Planning Commission has the authority to sign and approve all checks for the expenditure of funds for the operation of the Grayson County Airport.

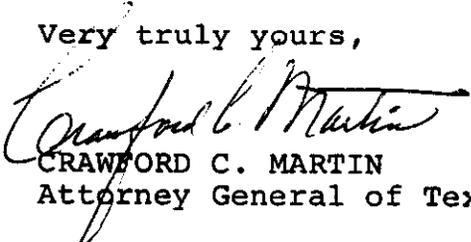
(3) The County Auditor will have no responsibility regarding the auditing of the special bank account created pursuant

to the proposed contract; such responsibility rests with the Regional Planning Commission.

S U M M A R Y

Pursuant to the provisions of Article 4413(32c), Vernon's Civil Statutes, a county and a regional planning commission have the authority to enter into contracts whereby the regional planning commission will assume operational control of a county airport. In such event the regional planning commission has the authority to create a special bank account and may expend funds from such account for the operation of the airport and such funds are not subject to audit by the county auditor, but such responsibility rests with the regional planning commission.

Very truly yours,


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