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RQ-0103-GA

August 25, 2003

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OPINION COMMITTEE

The Honorable Greg Abbott
Attorney General of Texas
Opinions Section
Supreme Court Building
P. O. Box 12548
Austin, Texas 78711

Certified Mail #7002 0860 0000 7387 6732
Return Receipt Requested

FILE # ML-43249-03
I.D. # 43249

Re: Request for Opinion Regarding Use of Venue Tax Funds Collected by
Terrell County Under Chapter 334 of the Texas Local Government Code

Dear Attorney General Abbott:

I hereby request an opinion from you regarding the questions listed below that relate to the use of venue tax funds collected by Terrell County under Chapter 334 of the Texas Local Government Code. The County Judge has posed those questions to me. I note that I previously submitted Opinion Request RQ-0048-GA, which I later withdrew.

Factual Background

The 75th Legislature passed House Bill 92, effective September 1, 1997, which gives counties authority to finance venue projects through sales and use taxes. See Texas Local Government Code, Chapter 334. Chapter 334 was amended by the 76th Legislature and the 77th Legislature.

On September 11, 2000, the Commissioners Court of Terrell County, Texas adopted a resolution calling for a county election for the purpose of imposing a sales and use tax in the amount of one-half of one cent for the purpose of financing venue projects and related infrastructure. See Exhibit A. Terrell County sent a copy of the resolution to the Comptroller, who determined

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(pursuant to Texas Local Government Code Section 334.022) that the approval of the resolution would have no significant negative impact on state revenue.

On November 7, 2000, the voters of Terrell County approved (by a vote of 248 in favor to 154 against) the following proposition:

Authorizing Terrell County, Texas to provide for improvements to all existing parks and for acquisition and development of land and improvements for additional public use and other improvements that relate to and enhance the use, value, or appeal of the public use sites designated as the East Gate Entrance Park, located on Highway 90 on the east side of Sanderson, adjacent to the Budget Inn, the Old Town Plaza, located near the Union Pacific Depot and Bunkhouse on Downie Street; and the Javalina Hill Scenic Overlook located at the northwest corner of the intersection off Wilson Street and U.S. Highway 90; and to impose a sales and use tax at the rate of one-half (1/2) cent for the purpose of financing the venue project described herein.

See Exhibit B hereto.

Since the effective date of the sales tax approved by the proposition, approximately \$284,000.00 has been collected and deposited in a venue project fund maintained by Terrell County. None of those funds have been expended.

Terrell County is prepared to proceed with the expenditure of venue funds on the Terrell County Convention and Visitors Center and related infrastructure, pending receipt of your opinion on the questions set forth below. The current plan for expenditure of the venue funds is described in Exhibit C.

Request for Opinion

Please review Exhibit C and provide me with an opinion on the following questions:

1. Is the expenditure of funds on the venue project described in Exhibit C authorized by the proposition approved by the voters of Terrell County on November 7, 2000?

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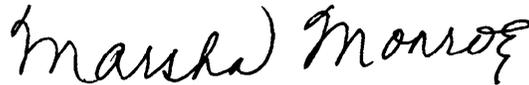
2. Is the expenditure of funds on the venue project described in Exhibit C authorized by the applicable provisions of Chapter 334 of the Texas Local Government Code?

3. If you opine that the expenditure of the venue funds on the venue project described in Exhibit C is not authorized by the voters or Texas law, please advise me of (a) how the venue funds can lawfully be expended, or (b) how the Terrell County should otherwise dispose of the venue funds.

Your opinion on these questions is greatly appreciated. Please contact Doug Sigel, who is assisting Terrell County with respect to this request, if you have any questions or need any additional information regarding this request. His phone number is 512-495-6305.

If necessary, the County Judge is prepared to meet with you to discuss in more detail our plans for the Terrell County Convention and Visitors Center.

Very truly yours,



Marsha Monroe
Terrell County Attorney

cc: Doug Sigel
Scott, Douglass & McConnico, L.L.P.
600 Congress Avenue, Suite 1500
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