

MARK S. HOUSER  
(214) 747-6120  
mhouser@bhlaw.net

January 18, 2017

Robert Patrick, Regional Administrator  
Federal Transit Administration, Region VI  
819 Taylor Street, Suite 14A02  
Fort Worth, TX 76102

RE: Opinion of Counsel - Application for federal transportation assistance from the Federal Transit Administration, United States Department of Transportation pursuant to 49 U.S.C. § 5307 as a Direct Recipient

Dear Mr. Patrick:

This firm represents the City of McKinney, Texas (the “City”) as its City Attorney. This communication serves as the requisite Opinion of Counsel to be filed with the Federal Transit Administration, United States Department of Transportation (“FTA”), in connection with the application of the City for federal transportation assistance authorized by 49 U.S.C. Chapter 53; Title 23 of the United States Code; and other federal statutes authorizing activities administered by the FTA.

Specifically, the City requests to be named a Direct Recipient of FTA funding under the Urbanized Area Formula Program (49 U.S.C. §5307) in the McKinney Urbanized Area. The City is also seeking authority from the Texas Department of Transportation (“TxDOT”), the Designated Recipient for the McKinney Urbanized Area, to apply for and receive Urbanized Area Formula Program assistance. In addition, TxDOT has submitted documentation of its support for the City to become the Direct Recipient under the Urbanized Area Formula Program.

Citations to laws, regulations, etc. that establish the legal authority of the City to request, receive and spend FTA funds to administer the FTA-assisted transportation projects for which federal assistance is sought is set forth below:

1. The City is a home-rule city located in the State of Texas and is subject to the Texas Constitution, state law, and state regulations. In Texas, home-rule cities derive their powers from the Texas Constitution. *See* TEX. CONST., art. XI, § 5; *see also*, TEX. LOC. GOV’T CODE, § 51.072. Therefore, the City possesses the full power of self-government and looks to the Texas Legislature not for grants of power, but only for limitations on its power. *See In re Sanchez*, 81 S.W.3d 794, 796 (Tex. 2002). The

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City is authorized by 49 U.S.C. § 5307(a)(2) to provide and assist transportation by concurrence as an additional grantee for the urbanized area from the designated recipient.

2. The authority of the City to request, receive, and spend funding as a Direct Recipient under the Urbanized Area Formula Program is set forth in Texas Transportation Code, Chapter 458. This chapter authorizes a political subdivision to operate a public transportation system in an urbanized area and to receive state or federal public transportation funds upon forming an urban transit district. TEX. TRANSP. CODE §§ 458.001(4), 458.009. In addition, the City has drafted a letter of request and intent to serve as the Direct Recipient of federal Urbanized Area Formula Program funds pursuant to 49 U.S.C. § 5307 (“Section 5307 Program”) for the McKinney Urbanized Area (“MUZA”).

I have reviewed the pertinent federal, state, and local laws and concluded that there is no legal impediment that may affect the legal status of the City in connection with filing an application for the funding for which it seeks assistance from the FTA. Furthermore, as a result of my review, I find that there is no pending or threatened litigation or other action which might in any way adversely affect the proposed funding or the capability of the City to carry out a project(s).

Please be advised that the City must notify the FTA of any change in local law, litigation, conditions or any other event that may significantly affect the City’s ability to carry out projects, and that any significant change in the status of the City will require a new Opinion of Counsel. The opinions set forth herein are based on existing law and my knowledge of relevant facts as the date of this letter; thus, the information and conclusions set forth herein are current as of the date of this letter. Such opinions are an expression of professional judgment and are not a guarantee of result. I disclaim any undertaking and assume no obligation to update or supplement this opinion to reflect any facts or circumstances which thereafter may come to my attention, or to advise you of any changes in law that may hereafter occur, without your specific request that I do so.

Sincerely,

Mark S. Houser