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OPINION

Opinion Committee  
Office of the Attorney General  
P. O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-41433-00  
I.D. # 41433

Re: Request for opinion regarding county work on roads in gated municipality

Salutations Attorney General John Cornyn,

I write to request an opinion on the following question: May a county enter into an interlocal contract with a municipality within the county to repair roads that are within the municipality but that belong to a property owners association where the use of such roads is open only to residents of the municipality and where the county is fully reimbursed by the municipality for the repairs to the roads?

The roads at issue are within the Village of Timbercreek Canyon (hereinafter "village"). The village, incorporated as a Texas municipality, lies entirely within Randall County (hereinafter "county"). Access to the village is controlled by gates at its entrance. Only residents of the village and their guests are allowed upon the roads within its boundaries, which are owned not by the village but by the Timbercreek Property Owners Association, Inc., a Texas non-profit corporation. The roads are not major thoroughfares and are not necessary to travel from one part of the county to another.

The county entered into an agreement with the village to sealcoat the roads within the village for a sum that would compensate the county in full for all costs incurred for the job. This office instructed the commissioners court, through two separate opinions which are enclosed and incorporated by reference, that the county was without authority to repair roads owned by private entities and that an interlocal contract under Government Code section 791.032 and Transportation Code 251.012 was similarly prohibited because no county purpose could be served by repairing roads that could not be used by most county residents. In response, the commissioners court voted to suspend participation in the project pending an opinion from the Attorney General on the matter. I thus propound the above question.


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It is my hope that the enclosed opinions from this office will satisfy the briefing requirement for this request. Should you need additional briefing, however, please contact me and I will provide whatever you require.

Thank you for your assistance in this matter.

Respectfully submitted,

James Farren  
Randall Co. Criminal Dist. Attorney

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