

Section 4B Questions and Answers

1. **What is Section 4B?**

Section 4B is a provision of the Development Corporation Act of 1979. In the Development Corporation Act of 1979, the Legislature declared that the promotion and development of new and expanded business enterprises would benefit the general welfare of the people of Texas and found that the existence, development, and expansion of business, commerce, industry, and higher education are essential to the economic growth of the state.

2. **What is a Section 4B sales tax?**

A section 4B sales tax is a sales tax which a city may impose for economic development. The tax is collected at the point of sale like other sales taxes but may only be imposed if the voters of the city approve the sales tax at a sales tax election such as the special election on this issue which will be on the November 4, 2008 ballot for voters of the City of Olmos Park.

3. **How many cities have adopted a Section 4B sales tax?**

As of 2006, 415 cities have adopted a Section 4B sales tax.

4. **What is the proposition on the November 4, 2008 ballot?**

“Shall the City Council of the City of Olmos Park, Texas adopt a Section 4B local sales and use tax in the City of Olmos Park, Texas at the rate of one-fourth of one percent to undertake any statute-authorized projects as described in Section 4B of the Development Corporation Act of 1979 as amended that will promote new or expanded business enterprises, and the maintenance and operation expenses for any such projects?”

5. **If adopted by the voters and then imposed by the City Council, when would the ¼ cent sales and use tax be charged in Olmos Park?**

If authorized by the voters in November, and then imposed by action of the City Council, the ¼ cent sales and use tax for economic development would begin to be collected April 1, 2009 in Olmos Park.

6. **Who administers and oversees a Section 4B sales tax?**

A non-profit corporation must be created by the City Council to administer the Section 4B sales tax. The non-profit corporation would be governed by both the Texas Business Organizations Code and the Development Corporation Act of 1979. The corporation determines which projects to fund but the City Council retains authority to approve all programs and expenditures of the corporation.

7. **How is a Section 4B corporation formed?**

A Section 4B corporation is formed by action of the City Council approving the Certificate of Formation for the corporation. The Certificate of Formation is filed in triplicate in the

Office of the Secretary of State to create the corporation. Among other things, the Certificate of Formation includes a statement as to the purpose of the corporation and the composition of the Board of Directors of the corporation. Upon issuance of a Certificate of Filing of the Certificate of Formation, the corporate existence commences. Promptly thereafter, the Board of Directors of the corporation should meet to hold an organizational meeting to adopt bylaws and elect officers of the corporation.

8. How many members serve on the Board of Directors of a Section 4B corporation?

The Board of Directors of a Section 4B corporation consists of seven members. Three of the seven members of the Board of Directors may not be employees, officers, or members of the governing body of the City of Olmos Park.

9. What is the term for which a member of the Board serves?

Section 4B corporation Board members serve a two-year term but serve at the pleasure of the City Council and may be removed by the City Council at anytime without cause. Board members may be reappointed to subsequent terms.

10. How is a vacancy on the Board of Directors of a 4B corporation filled?

Any vacancy on the Board of a Section 4B corporation would be filled by an appointment made by the City Council.

11. Can the City of Olmos Park provide services or money to a Section 4B corporation?

A city is generally prohibited from lending its credit or granting any public money or thing of value to the Section 4B corporation.

12. Are Board meetings of the Section 4B corporation subject to the Texas Open Meetings Act?

Yes. All meetings of the Section 4B corporation are subject to the Texas Open Meetings Act and all meetings must occur within the city limits. The Board of Directors of a Section 4B corporation may not take action by unanimous written consent without a meeting.

13. Are the bylaws of the Section 4B corporation subject to approval by the City Council?

Yes. In addition to the initial bylaws, all amendments to the bylaws of the Section 4B corporation must be approved by resolution of the City Council.

14. What projects are permissible for a Section 4B corporation?

In a city such as Olmos Park, a Section 4B corporation is authorized to have projects which assist with land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements provided that the Board of Directors must determine that the assistance will promote new or expanded business development. In addition, the Section 4B corporation may not undertake a project

to assist with land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that requires an expenditure of more than \$10,000 until the City Council adopts a resolution authorizing the project after giving the resolution at least two separate readings.

15. Can a Section 4B corporation undertake projects which are located outside the city limits?

An Economic Development Corporation formed by the City of Olmos Park may undertake projects outside of the city limits of the City of Olmos Park with permission of the governing body that has jurisdiction over the property where the project is located. For example, the City Council of the City of San Antonio would have to give permission for the Economic Development Corporation formed by the City of Olmos Park to undertake projects within the City of San Antonio.

16. Are public hearings required prior to funding Section 4B projects?

The Section 4B corporation must conduct at least one public hearing on proposed Section 4B projects.

17. Are there any public notice requirements for a Section 4B project?

The Section 4B corporation must publish a notice of the specific project or category of projects before expending any monies for the Section 4B projects. No funds may be expended on the project for 60 days after first publishing such notice.

18. Can citizens object to a Section 4B expenditure?

If the City Council receives a petition signed by more than 10 percent of the registered voters of the City requesting an election be held before a specific project or general type of project is undertaken, the Section 4B corporation may not undertake the project until the voters approve the project at an election called and held to consider the proposed Section 4B project. An election is not required to be held after submission of a petition if voters have previously approved the specific project at an election called for that purpose or in conjunction with another Section 4B election. The special election on November 4, 2008 is on the question of whether the City Council should adopt the ¼ of one percent sales and use tax for economic development. The special election on November 4, 2008 does not authorize any specific project.