

November 7, 1985

REPORT TO THE HONORABLE

MAYOR AND CITY COUNCIL

FORMATION OF NON-PROFIT CORPORATION TO HOLD TITLE TO
CITY PROPERTIES FOR PROPERTY TAX MITIGATION PURPOSES;
WESTERN AND SOUTHEASTERN POLICE SUBSTATIONS, POLICE
HEADQUARTERS, POLICE HEAVY VEHICLE MAINTENANCE FACILITY

As you may recall, the Western and Southeastern Police
Substations, the Police Headquarters and the Vehicle Maintenance
Facility have been or are being constructed with funds derived
from the sale of Certificates of Participation. This financing
method has one drawback, which was pointed out to you in the
course of the hearings on the financing; it subjects the lessor
to property taxes assessed and levied by the County on the theory
of a possessory interest. As all of the leases are "net-net"
rent paid to the lessor, this passes the tax implication and
burden on the City-lessee.

In order to mitigate the property taxes on the above-captioned properties, we are recommending the formation of a non-profit corporation, the sole member of which will be the City, to hold title to the properties while they are leased by the City. We believe this may result in full mitigation of the tax.

In this particular case we are recommending that the City Attorney, the City Manager and the City Auditor serve as the officer and directors of the non-profit corporation.

The attached draft Articles of Incorporation and Bylaws are for your review. Section 2 of Article III (page 5) of the Bylaws is the most significant for your immediate purposes. All of these City officers have had an opportunity to review these documents, commented thereon and have indicated their willingness to serve in this capacity.

Thus far, our legal research has indicated no impediment to proceeding in this fashion. Our next step is to formally consult with the various Bond Counsel who have been previously retained concerning the financial structuring of the City improvements in question. Informal discussions to date have been encouraging with no specific objections raised.

In order to appreciate the financial implications of this

proposal, I am advised by Financial Management as follows:

- a) Property taxes on the Police Headquarters for the period ending June 30, 1985 are in excess of \$75,000; with substantial increases as construction continues. Estimated taxes at completion and City take-over date in excess of \$300,000 p/a. (We will not be able to transfer title on the property until City take-over of the building).
- b) Taxes on the Vehicle Maintenance Facility are presently estimated at \$30,600 for the 1986 tax year. The Facility will probably be ready for City take-over prior to December 31, 1985 and if title were transferred on January 1, 1986; 50% of that sum ($\$30,600 \div 2$) = \$15,300 could be mitigated in 1986 and the sum of approximately \$30,000 p/a thereafter for the life of the lease (potentially 20 years).
- c) For the Police Substations, the 1986 estimated taxes are \$71,600. A January 1, 1986 transfer of title to the new corporation should mitigate 50% or \$35,800 ($\$71,600 \div 2$ = \$35,800). Thereafter a sum in excess of \$70,000 p/a could be mitigated entirely or at least reduced substantially.

In summary then, this approach may result in a tax savings to the City of \$400,000 p/a or more.

The City Manager and City Auditor concur in our recommendation to proceed with formation of the non-profit corporation in this fashion. On October 14, 1985 the Rules Commission recommended approval on this action.

Respectfully submitted,

JOHN W. WITT

City Attorney

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