

(R-86-821)

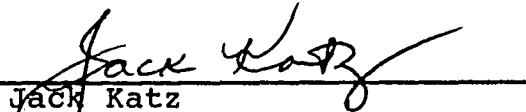
RESOLUTION NUMBER R- 264478

ADOPTED ON NOV.18 1985

BE IT RESOLVED, by the Council of The City of San Diego, that the City Attorney's recommendation in his report dated November 7, 1985 to form a non-profit corporation to hold title to City properties for property tax mitigation purposes, be and it is hereby adopted.

APPROVED: JOHN W. WITT, City Attorney

By



Jack Katz
Chief Deputy City Attorney

CMF:JK:js:703
11/7/85
Or.Dept:Mayor/Rules
R-86-821
Form=r.none

NOV 18 1985

Passed and adopted by the Council of The City of San Diego on
by the following vote:

| Councilmen | Yeas | Nays | Not Present | Ineligible |
|-----------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Bill Mitchell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Cleator | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gloria McColl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| William Jones | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ed Struiksma | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mike Gotch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| District 7 - vacant | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Uvaldo Martinez | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Roger Hedgecock | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *June G. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-264478 Adopted NOV 18 1985

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CURTIS M. FITZPATRICK
ASSISTANT CITY ATTORNEY
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SENIOR CHIEF DEPUTY CITY ATTORNEY

OFFICE OF
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CITY OF SAN DIEGO

CITY ADMINISTRATION BUILDING
SAN DIEGO, CALIFORNIA 92101-3863
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JOHN W. WITT
CITY ATTORNEY

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

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November 7, 1985

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 divided by 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 divided by 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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RC-85-25

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