

September 25, 1986
FA:86281:JRC:KMF

916-449-5704

MEMORANDUM

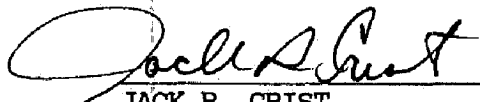
TO: LARRY LUNARDINI, Deputy City Attorney
FROM: JACK R. CRIST, Deputy City Manager
RE: Community Center Authority

Just wanted to follow up our meeting last week with a formal written request for a legal opinion which supports our previous action to:

1. Acquire the "Scofield Building" by assuming an existing outstanding first mortgage with Home Federal.
2. Allowing us to make monthly mortgage payments to Home Federal from surplus and/or construction reserves held by the Authority Trustee, Security Pacific.

Also, we would like you to draft a lease agreement between the Authority and the City whereby Scofield Building income and expenses would be income and expenses of the City's Community Center Fund and in return the City would agree to make lease payments to the Authority for the purpose of paying the monthly Home Federal note if the Authority does not have surplus and/or construction funds available for said payments. In effect, the City will guarantee payment after the Authority has spent its surplus funds.

cc: Sam Burns
Lorraine Magana
Tom Friery
Phil Ezell


JACK R. CRIST
Deputy City Manager

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO

SEP 9 2 34 PM '86

August 20, 1975

OPINION

TO: DIRECTOR OF FINANCE

FROM: CITY ATTORNEY

RE: SACRAMENTO COMMUNITY CENTER AUTHORITY 1971 BONDS

QUESTION

You have requested an opinion of this office on the following question: May the \$154,153 in the Surplus Revenue Fund of the Sacramento Community Center Authority be used for additions to the Community Center and to reimburse the City for capital expenses heretofore made by the City at the Center?

ANSWER

The money available in the Surplus Revenue Fund may be expended by the Community Center Authority for these purposes.

ANALYSIS

At the completion of the construction of the Sacramento Community Center, a sum of money in excess of \$110,000 remained unexpended in the Construction Fund for the project. This fund was held by Security Pacific National Bank as trustee in accordance with the provisions of Resolution No. 10-71 of the Sacramento Community Center Authority authorizing the issuance of \$19,100,000 of Community Center 1971 Bond (hereinafter referred to as the Bond Resolution).

Section 3.03 of the Bond Resolution provided that upon completion of the project and its acceptance by the Authority, any moneys remaining in the Construction Fund should be deposited in the Revenue Fund. This latter fund is provided for in Section 5.01 of the Bond Resolution and consists of five special funds which are described in Section 5.02 of the resolution. These special funds are the Interest Fund, Redemption Fund, Sinking Fund, Operation and Maintenance Fund and Surplus Revenue Fund. All moneys deposited in the Revenue Fund will ultimately find its way into one

or more of the five special funds.

The trustee determined that the surplus moneys from the Construction Fund were not required for the Interest Fund, the Redemption Fund, Sinking Fund or the Operation and Maintenance Fund and accordingly, deposited the remaining Construction Fund balance in the Surplus Revenue Fund where it now remains.

Your staff has recently suggested that the amount of funds on deposit in the Interest Fund are inadequate to meet the requirements of the Bond Resolution and have accordingly indicated that any moneys held in the Surplus Revenue Fund should be first used to defray purported underfunding of the Interest Fund. Your staff's opinion on this matter is based upon the assumption that Section 5.02(a) of the Bond Resolution requires the Interest Fund to have a minimum balance at all times which would be sufficient to pay the aggregate amount of interest becoming due and payable on outstanding bonds on the next two succeeding interest dates. No such minimum balance is presently maintained.

We do not believe that this is the correct interpretation of Section 5.02(a). It reads:

Allocation of Revenues to Special Funds. Upon receipt thereof, the Trustee shall deposit in the Revenue Fund all Revenues. The Trustee shall thereupon deposit all moneys in the Revenue Fund in one or more of the funds set forth in this Section 5.02, each of which the Trustee shall establish, maintain, and hold in trust, and the moneys in each of which shall be disbursed and applied only as hereinafter authorized. Such Revenues shall be so deposited in the following order of priority, the requirements of each such fund at the time of deposit to be satisfied before any transfer is made to any fund subsequent in priority:

(a) Interest Fund. The Trustee, on or before each August 15 (commencing on August 15, 1974) shall deposit in the Interest Fund (the initial payment into which is provided for in Section 3.02) an amount which, together with any balance then on deposit in said fund, will be sufficient to pay the aggregate amount of interest becoming due and payable on the outstanding Bonds on the next two succeeding interest payment dates.

Thus, the interest fund must have enough money deposited on August 15, for the following February 1, and August 1, interest payments, but the interest fund does not have to contain a minimum fund balance equal to the next two interest payments. The Official Statement for these bonds (page 4) points out that the bonds have

the security of having the interest payments deposited far in advance of payment:

Lease payments will be due annually on each August 15 in amounts at least sufficient to meet debt service requirements due on the ensuing February 1 and August 1. Such payments will be made directly to the Trustee by the City for the benefit of the Bonds. (The Trustee will thus have the interest payment due February 1 almost six months in advance, and the interest and principal payment due August 1 nearly one year in advance). The Authority will provide the Trustee, prior to the beginning of each fiscal year and not later than the date fixed for public hearing on the proposed City budget, a determination that the amounts so budgeted are fully adequate for payment of all rentals due under the Project Lease in the then-ensuing fiscal year.

You will note that no mention is made of a minimum fund balance in the Interest Fund. Accordingly, we are of the opinion that the \$154,153 in the Surplus Revenue Fund is available for the following purposes:

(e) Surplus Revenue Fund. After making the deposits required by subsections (a) through (d) above, the Trustee on or before each August 15 (commencing on August 15, 1974) shall deposit any available Revenues in the Surplus Revenue Fund. The Trustee shall, on the first business day after making each deposit in the Surplus Revenue Fund, determine if any moneys then in the Surplus Revenue Fund shall be required for the payment of principal and interest on any succeeding interest payment date (assuming for the purpose of such determination that the City will pay when due all payments of Base Rental required by Section 3(a) of the Project Lease), and shall hold any such moneys in the Surplus Revenue Fund for transfer to the Interest Fund, the Redemption Fund and the Sinking Fund when so needed. Except as hereinabove provided, moneys in the Surplus Revenue Fund may be used (i) for the redemption of Bonds upon the notice and in the manner provided in Article IV; (ii) for the purchase of Bonds at such prices as the Authority may deem advisable, but not to exceed the par value thereof, or, in the case of Bonds which by their terms are subject to call and redemption, the highest redemption price (excluding accrued interest) or the then current redemption price (excluding accrued interest), whichever is lower; (iii) for transfer to the

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Working Capital Fund or the Operation and Maintenance Fund; (iv) for transfer to the Construction Fund for changes, alterations and additions to the Project; or (v) for transfer to the City. The Trustee shall apply moneys in the Surplus Revenue Fund for any of the above purposes upon the Request of the Authority. Moneys in the Surplus Revenue Fund shall be used and withdrawn by the Trustee solely for the foregoing purposes, subject, however, to the provisions of Section 5.05.

In conclusion, the Surplus Revenue Funds are available for additions to the Project or for reimbursement of the City.

JAMES P. JACKSON, City Attorney

By

DAVID W. McMURTRY
Assistant City Attorney

DWM:kn

Cc's: Community Center Authority
City Manager
Assistant City Manager - Community Development
John Whitehead