



PRESTON GATES & ELLIS LLP  
ATTORNEYS

MEMORANDUM

To: Bob Robideaux  
From: Mike Ormsby *[Signature]*  
Date: March 26, 1998  
Subject: Legal Fees—General Counsel and Bond Counsel Services for  
Spokane Downtown Foundation

Introduction:

Preston Gates & Ellis LLP ("Preston") first committed to serve as bond counsel to the Spokane Downtown Foundation (the "Foundation") in December of 1996. Our initial fee quote was \$50,000.00 for fees associated with the issuance of bonds and another \$10,000.00 for work with the Department of Revenue and the Spokane County Treasurer's Office on a determination that the Parking Facility (the "Facility") financed with proceeds of the Bonds, would be exempt from the payment of property taxes.

Since the time of our initial engagement, several events have occurred which have caused Preston to ask for consideration in increasing our fees for this Project, including:

(1) Examination of Various Options for Project and Financing. The change or possible changes in the structure of the Project, including the possible issuance of 501(c)(3) Bonds, the possible use of bond proceeds for construction financing instead of take-out financing, and other work we have done to explore various financing options and structures while much of this work did not lead to changes in the financing package, it improved the documents.

(2) Expansion of our Role as General Counsel. In order to facilitate the role as bond issuer, the Foundation needed to be restructured and reconfigured. Additionally, there are certain operational advantages that will accrue to the Foundation if it operates as a 501(c)(3) corporation (this will be discussed later). The occurrence of these, as well as other events, have necessitated additional work as general counsel.

(3) Delay in the Project. Through no fault of anyone actively pursuing and supporting this Project, it has been over fifteen (15) months since we have begun working on this Project. In addition to numerous changes necessitated by the change in events, documents have gotten old and stale, requiring additional review and modification.

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EXHIBIT 871  
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Memorandum  
March 26, 1998  
Page 2

(4) 501(c)(3) Application Status. Initially, it was felt that it would be advantageous to apply for and obtain 501(c)(3) status in order to issue 501(c)(3) bonds. Given the restrictions applicable to parking validation programs and volume cap issues, it was ultimately determined that the use of Revenue Rule 63-20 was the best approach to use in the issuance of bonds. However, there is some liability for federal and state taxes generated by operation of a parking facility which we believe can be avoided if the Foundation operates as a 501(c)(3) entity. While 501(c)(3) status does not assist in the issuance of the bonds, it can be of benefit in the ongoing operation of the Facility. If these operational taxes can be avoided, the net profit available for split between the Developer and the City will increase. (Additionally, we think the existence of a 501(c)(3) organization may ultimately help on the property tax question, depending on the regulations ultimately promulgated by the Department of Revenue.)

To date, we have incurred the time value in the approximate amount of \$55,000.00 and costs in the amount of \$2,700.00. We would expect that prior to the end of this Project, assuming the structure we are now discussing, additional fees in the amount of \$22,000.00 and costs in the amount of \$5,000.00 (including application and review fees to the Internal Revenue Service) will be incurred with fees and costs of \$57,700.00 already incurred, this would raise the total for fees and costs to \$84,700.00, which is \$24,700.00 more than the \$60,000.00 reflected in the last budget circulated by John Moore. (We would be willing to cap the total fees and costs at that level, assuming no further changes in the approach to the financing.)

We have very much enjoyed the opportunity to work with you and others on this Project. I know that you and others who are working on this Project have also incurred additional costs as a result of the dynamics in the Project. We would respectfully ask some form of consideration in terms of increased allowance for fees and costs on this Project. Thank you.

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