

CCM/pe pg 404

In order to have adequate funds in the General Fund to pay for the lease payments under the Certificates of Participation method of financing; and further for the maintenance and operation of the Hutchins Street Square project, it was determined that it would be possible to place an advisory proposition on the ballot pursuant to Election Code §5353, which would ask the voters in the City of Lodi to impose a fee to pay for the capital improvements and maintenance and operation of the Hutchins Street Square project.

If the advisory measure received a majority vote, the City Council would then authorize the fee by ordinance and further would authorize the use of Certificates of Participation for the completion and maintenance and operation of the Hutchins Street Square project. It should be noted for the Council's benefit that any revenues that are received by the Hutchins Street Square project, could then be used to offset any of the fee which the citizens are asked to pay, pursuant to the voter-approved fee.

2. It is the recommendation of the Mayor's Task Force that Certificates of Participation represent the most effective method for financing the Hutchins Street Square project. Further, in order to provide for adequate funding in the General Fund to pay for the lease payments under the Certificates of Participation, and for the maintenance and operation of the Hutchins Street Square project, that the citizens of the City of Lodi should be asked in an advisory measure pursuant to Election Code §5353, whether the City should impose a fee on the residential, commercial, and industrial properties within the City of Lodi, to pay for the lease payments under Certificates of Participation, and for the maintenance and operation of the Hutchins Street Square project.

Both Council Member Snider and City Attorney Stein addressed the Council on the subject and responded to questions as were posed by the Council on the matter.

HUTCHINS STREET
SQUARE PROJECT
FINANCING

Council received the following report from the Hutchins Street Square Long Term Financing Committee:

- 1) On March 6, 1985, Mayor Randy Snider appointed a Task Force to discuss long term financing for the completion of the Hutchins Street Square Community Center project. The members appointed or represented were Mayor Randy Snider, City Attorney Ronald Stein, City Clerk Alice Reimche, Old Lodi Union High School Site Foundation Chairman Dennis Bennett, Staff Liaison Charlene Lange, City Finance Director Bob Holm and John Talbot, Representative of Wulff, Hansen and Company.

On the following dates, the Committee met to discuss long term financing tools for the Hutchins Street Square project:

March 12, March 20, April 2, and April 9, 1985. It was determined during said period of time to contact Steven Casaleggio of Jones, Hall, Hill and White to ask him to meet with the Committee to discuss specific recommendations for long-term financing of the Hutchins Street Square project.

On April 2, 1985, Steven Casaleggio and Brian D. Quint, attorneys for Jones, Hall, Hill and White, along with City Manager Tom Peterson, met with the aforementioned Task Force Committee to discuss long-term financing for the project. At said time and place it was determined by the Task Force, after looking at a number of different methods of financing, that the most efficient way to finance the Hutchins Street Square project, was through Certificates of Participation.

The term "Certificates of Participation" is a term which represents the participation in the lease payments. The public entity is considered the lessee. The lessor can be a private non-profit corporation. A bank or financial institution or other investor will pay the lessor cash for the present value of the future lease payments and this money then would be used to build the Hutchins Street Square project. You would then have purchasers or investors who would purchase the Certificates of Participation in the lease payments. The lease can be structured for any period of time. Normally, they are structured from 20 to 30 year periods.

COUNCIL COMMUNICATION

TO: THE CITY COUNCIL

DATE

NO.

FROM: THE CITY MANAGER'S OFFICE

APRIL 10, 1985

SUBJECT:

HUTCHINS STREET SQUARE PROJECT FINANCING

RECOMMENDATION

It is the recommendation of the Mayor's Task Force that Certificates of Participation represent the most effective method for financing the Hutchins Street Square project. Further, in order to provide for adequate funding in the General Fund to pay for the lease payments under the Certificates of Participation, and for the maintenance and operation of the Hutchins Street Square project, that the citizens of the City of Lodi should be asked in an advisory measure pursuant to Election Code §5353, whether the City should impose a fee on the residential, commercial, and industrial properties within the City of Lodi, to pay for the lease payments under Certificates of Participation, and for the maintenance and operation of the Hutchins Street Square project.

ANALYSIS

On March 6, 1985, Mayor Randy Snider appointed a Task Force to discuss long term financing for the completion of the Hutchins Street Square Community Center project. The members appointed or represented were Mayor Randy Snider, City Attorney Ronald Stein, City Clerk Alice Reimche, Old Lodi Union High School Site Foundation Chairman, Dennis Bennett, Staff Liaison Charlene Lange, City Finance Director Bob Holm, and John Talbot, representative of Wulff, Hansen & Co.

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the future lease payments and this money then would be used to build the Hutchins Street Square project. You would then have purchasers or investors who would purchase the Certificates of Participation in the lease payments. The lease can be structured for any period of time. Normally, they are structured from 20 to 30 year periods. A very short sketch of how Certificates of Participation work is attached hereto for your review.

In order to have adequate funds in the General Fund to pay for the lease payments under the Certificates of Participation method of financing; and further for the maintenance and operation of the Hutchins Street Square project, it was determined that it would be possible to place an advisory proposition on the ballot pursuant to Election Code §5353, which would ask the voters in the City of Lodi to impose a fee to pay for the capital improvements and maintenance and operation of the Hutchins Street Square project.

If the advisory measure received a majority vote, the City Council would then authorize the fee by ordinance and further would authorize the use of Certificates of Participation for the completion and maintenance and operation of the Hutchins Street Square project. It should be noted for the Council's benefit that any revenues that are received by the Hutchins Street Square project, could then be used to offset any of the fee which the citizens are asked to pay, pursuant to the voter-approved fee.

Respectfully submitted,

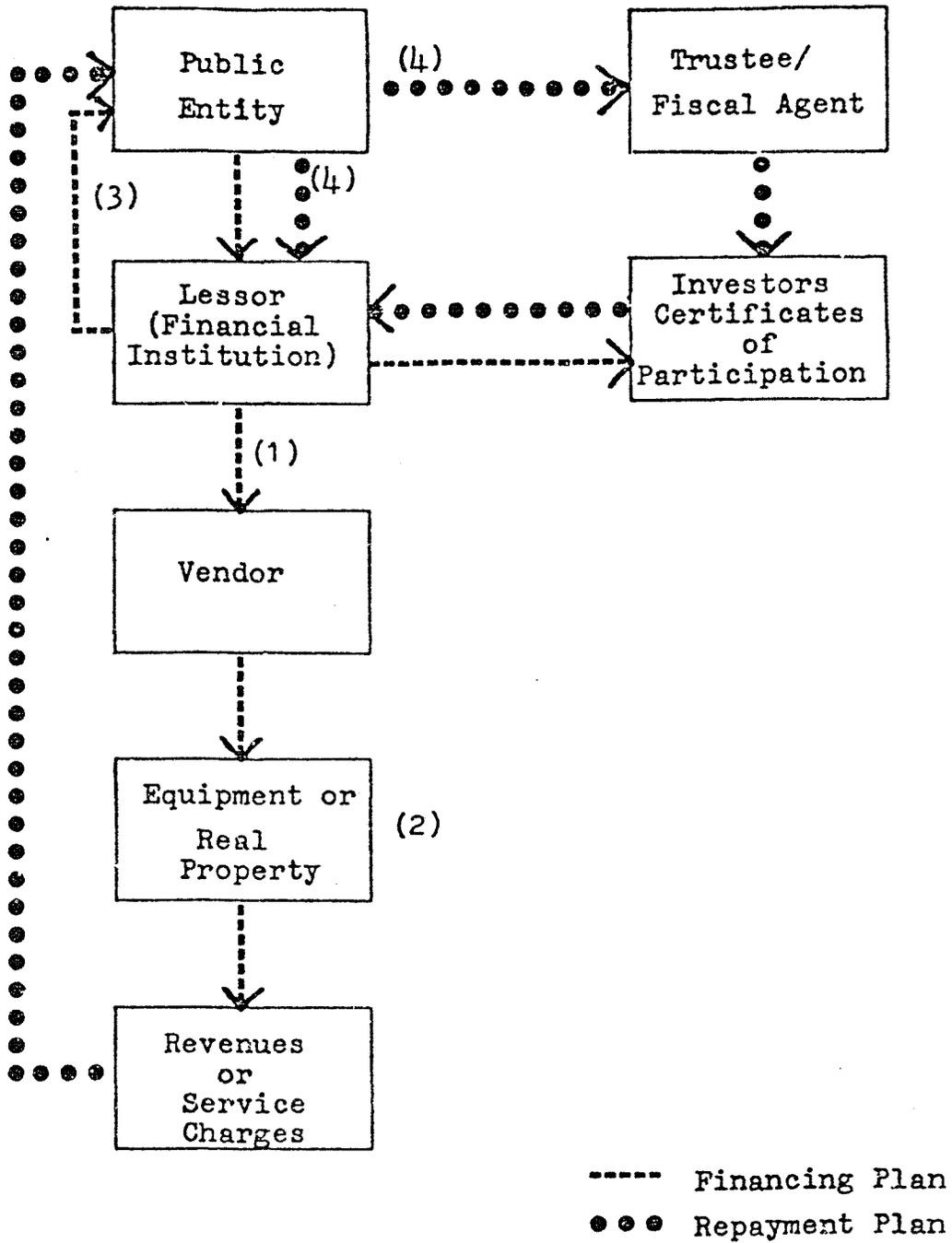
HUTCHINS STREET SQUARE
LONG TERM FINANCING COMMITTEE
(MAYOR'S TASK FORCE)

COUNCILMAN RANDY SNIDER
DENNIS BENNETT, CHAIRMAN, OLD
LODI UNION HIGH SCHOOL
FOUNDATION
JOHN TALBOT, WULFF, HANSEN & CO.
ALICE M. REIMCHE, CITY CLERK
ROBERT HOLM, FINANCE DIRECTOR
CHARLENE LANGE, COMMUNITY
RELATIONS ASSISTANT
RONALD M. STEIN, CITY ATTORNEY

RMS:vc

attachment

CERTIFICATES OF PARTICIPATION



- (1) Financial institution pays vendor cash at present value of future lease payments.
- (2) Ownership remains with financial institution until terms of lease are satisfied or may be sold to trustee for \$1.00.
- (3) Equipment or property leased back to public entity.
- (4) Lease rental payments which provide security for certificates of participation.

Certificates of Participation

This financing technique provides long-term financing through a lease (with an option to purchase or a conditional sale agreement) that does not constitute indebtedness under the state constitutional debt limit and does not require voter approval. This method is being used for long-term financing of major projects such as administration buildings, public safety facilities, court houses, parking garages, and recreational facilities. This method is also being used to finance the acquisition of motorized equipment, communications systems, computers, and other major items of equipment having a life of 3-10 years.

When a public sale of a lease, or certificates of participation in a lease, is planned, the principal parties include (1) the public entity (lessee), (2) the lessor, which may be a private leasing corporation, a non-profit corporation or public agency, e.g., redevelopment agencies, parking authorities or joint power authorities, (3) a bank, financial institution or other investor (who may pay the lessor cash for the present value of future lease payments), (4) purchasers or investors (who purchase certificates of participation in a lease), (5) a trustee (who holds any security for payment of the lease in trust under a trust indenture between the lessee, lessor and the trustee), (6) and a paying agent or escrow agent (who collects lease payments and distributes them to the holders of certificates of participation). The trustee may also be the paying agent or escrow agent.

Legal basis for this financing technique comes from the basic laws allowing public entities to enter into lease agreements for one year at a time, on the grounds that the governing body of a public entity cannot obligate future governing bodies to honor a lease agreement*. This may result in the certificates of participation commanding a higher interest rate. The public entity must also comply with state public bidding laws, usury and legal interest rate laws, laws authorizing the lease, and disclosure requirements.

When evaluating security, the following should be considered.

- A reserve fund should equal one year's debt service or an amount not to exceed 15% of the issue.
- Since the lease is not indebtedness of the public entity, the vendor or investor has no recourse against the public entity for future rental payments if there is a nonappropriation and the lease is cancelled. (The public entity's only obligation is to return the leased property to the lessor.)
- Lessor may either retain security interest in the property and the lease or he may sell his equity interest to the trustee for \$1.00.
- A remarketing agreement should be provided by the lessor or trustee.
- The public entity's need for the facility or equipment is a form of security. If property is used in an essential service, there is more likelihood that the lease payments will be made.
- Insurance or a third-party guarantee may provide security for rental payments.
- Project revenues may be used to make lease payments if the facility is revenue-producing.

Certain other considerations need to be addressed to assess the credit quality and soundness of the financing arrangements.

- Which party retains title during the term of the lease?
- Which party pays taxes, insurance, and operation and maintenance during the term of the lease?
- What kind of service or maintenance contract, if any, is sold by the manufacturer or vendor to the lessee?
- What provision does the lease contain for upgrading with "state of the art" property during the lease term?
- When does acceptance or delivery take place in relation to the lessee's obligation to make lease payments?
- What right does the lessee have to cancel the lease and substitute other property?
- What obligation does the vendor have to the assignee or trustee to re-lease or sell the property should the public entity cancel the lease (i.e., a remarketing agreement)?
- Is there a third guarantor of the lease payments or can the financing qualify for municipal bond insurance?

Chart 10 illustrates lease purchase with certificates of participation.

* Some bond counsel have opined that if the lessee is an enterprise fund, the fund may be committed for the full term of the lease on the basis that the fund is exempt from the annual appropriation required of public entities by the state constitution.

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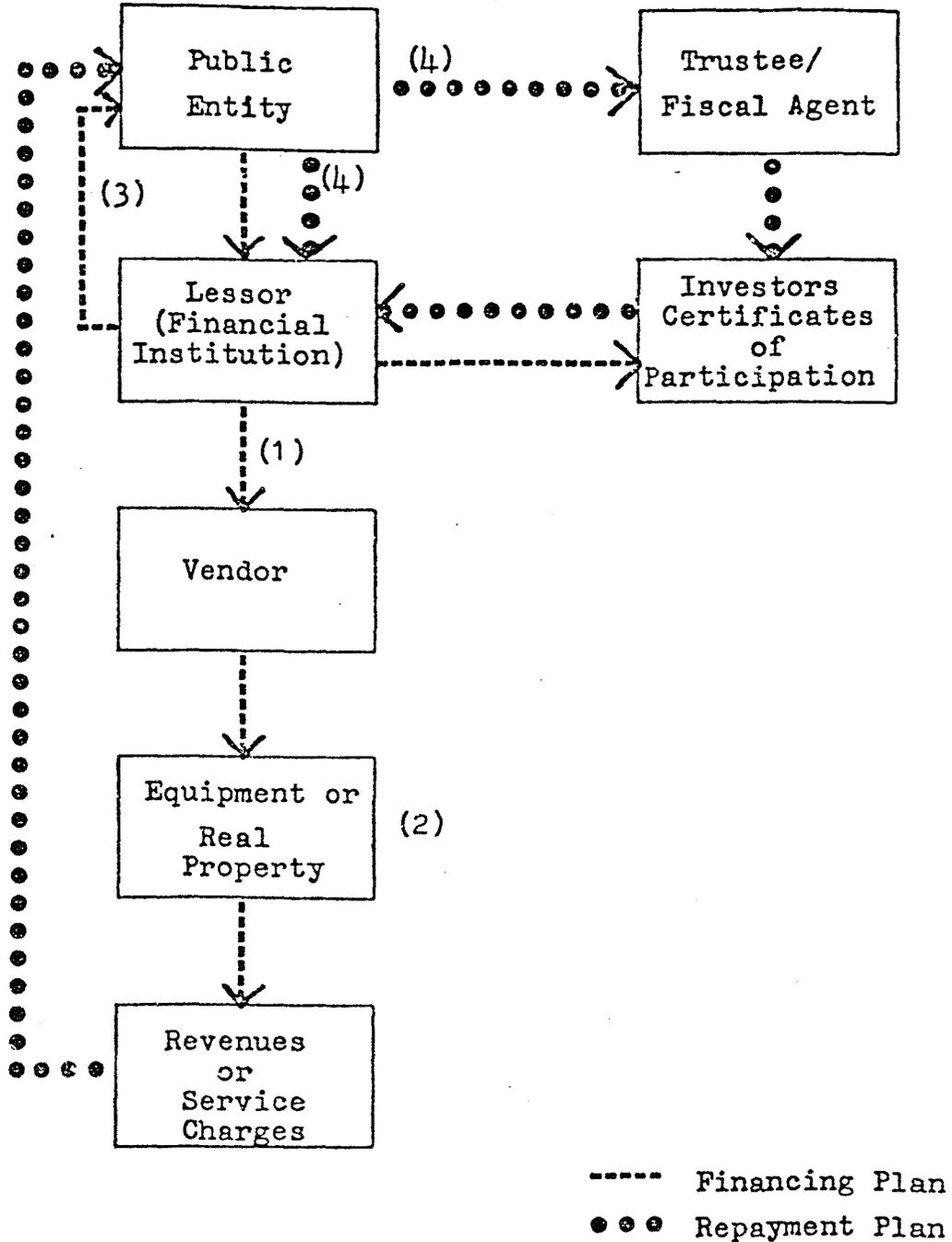
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