MEMORANDUM OF LAW

DATE: March 17, 1986
TO: Jack Van Cleave, Director, Planning Department
FROM: City Attorney
SUBJECT: Proposed North Island Reorganization - Potential Split Between San Diego and Coronado of State and Federal Subventions - Spanish Bight

By memorandum dated February 13, 1986, you explained that City staff is considering recommending to the City Council a method whereby certain lands within the City of San Diego adjacent to the City of Coronado would be annexed to the City of Coronado. Your memorandum further indicated that a condition of such annexation would be Coronado's agreement to split revenues attributable to Navy personnel stationed in the annexed area resulting from State and Federal subvention based on population. It is proposed that the City receive sixty-three percent of such subvention and the City of Coronado thirty-seven percent on the basis of a study which indicated that the Navy personnel in the area proposed for annexation spend the majority of their time in off-base portions of the City of San Diego.

Your memorandum, copy attached, posed the following three questions:

1. Assuming that a formalized agreement is reached, should it stand on its own or should we also seek to incorporate it as a "term and condition" of the reorganization?
2. What kind of recourse should be written into the agreement to cover a possible refusal on Coronado's part to make a required payment?
3. Is a "friendly suit" the appropriate approach to "settling" the jurisdictional status of the Spanish Bight.

With regard to the first question, it is recommended that the division of revenues be included in the reorganization documents pursuant to Government Code Section 56844.

As to your second question, any agreement with Coronado should be specific as to when and how amounts due the City would be paid and should provide that in the event of nonpayment the prevailing party in any litigation resulting from such nonpayment would be entitled to recover all of its costs including

reasonable attorneys fees. It does not seem appropriate to require a cash bond, or equivalent, when dealing with another City since Coronado, of course, will always have adequate assets to cover its obligations.

With regard to your final question and as we discussed on the phone, if the cities of San Diego and Coronado mutually agree that the Spanish Bight area should be annexed to the City of Coronado, there would be no necessity of a lawsuit, "friendly" or otherwise, to resolve the matter. On the other hand, if the two parties do not agree, a dispute could result in litigation which would not, in such event, be considered a "friendly" suit.

JOHN W. WITT, City Attorney
By
Harold O. Valderhaug
Deputy City Attorney

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Attachment
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