



NAMAN HOWELL SMITH & LEE

A REGISTERED LIMITED LIABILITY PARTNERSHIP

ATTORNEYS AT LAW

MEMORANDUM

from

Dan Pleitz

(254) 755-4100

Fax (254) 754-6331

E-mail: pleitz@namanhowell.com

TO: Austin City Council

DATE: July 21, 2008

RE: Tax Exempt Financing for Texas Empowerment Academy

To the Members of the City Council:

Our law firm has been asked to undertake a tax exempt financing for the benefit of Tri-Angel Unlimited, Inc. d/b/a Texas Empowerment Academy (the "School"). The School is a Texas charter school and a nonprofit corporation. The purpose of the financing (in an amount not to exceed \$1,400,000) is to allow the School to purchase a building located at 3613 Bluestein Drive, Austin, Texas 78721, with that property being used as the site for an administrative and classroom building used by the School. The School currently enrolls students from the 5th through the 9th grades.

Because this is a private placement with Regions Equipment Finance Corporation we are using the "Oglesby Education Facilities Corporation" to accomplish the financing. There is a \$10,000,000 limit imposed in Section 265 of the Internal Revenue Code on financings of this type. (The limit applies in the city where the financing is accomplished (Oglesby).) We have to take this financing to a city where the total of tax exempt financing done in 2008 in that city (again, Oglesby) does not exceed \$10,000,000 or there is a penalty applied to Regions.

The Oglesby Education Facilities Corporation is created pursuant to Chapter 53A of the *Texas Education Code*, particularly Section 53A.35(b). It has the authority to enter tax exempt financings throughout Texas for facilities such as the Texas Empowerment Academy project.

Under the provisions of Section 147(f) of the Internal Revenue Code, we have to get the approval of both the city where the financing will originate (Oglesby) and the jurisdiction where the School is located (Austin or Travis County). We are asking for the City of Austin to give this approval in this case.

This financing does not constitute a liability of the City of Austin in any way whatsoever. It does not count against the City of Austin's bonding capacity or the \$10,000,000 limit referred to above in Section 265 of the Internal Revenue Code. All of the expenses and repayment liability in regard to this financing are solely the obligation of the School.

This is a favorable financing for the School since the interest rate on the loan is tax exempt. We appreciate your kind consideration of this request. If you have any questions, you may call Dan Pleitz (the bond lawyer) at 254-755-4100 or Mr. David Nowlin who is the Superintendent of the School at 494-1076.