



CITY OF SACRAMENTO

4

OFFICE OF THE TREASURER

800 10TH STREET SACRAMENTO, CA 95814
SUITE 1 TELEPHONE (916) 449-5318

THOMAS P. FRIERY
TREASURER

DONALD E. SPERLING
ASST. TREASURER

April 3, 1986
TRS:86082:formpfc:TPF:lv

Budget & Finance Committee
Sacramento, California 95814

Honorable Members in Session

SUBJECT: Formation of City of Sacramento Public Facilities Financing Corporation

SUMMARY

Attached is the report to the full Council recommending approval of a Resolution and Articles of Incorporation for formation of a Public Facilities Financing Corporation for the City of Sacramento.

RECOMMENDATION

It is recommended that the the Committee forward the attached report to the full Council for approval.

Respectfully submitted,

THOMAS P. FRIERY
City Treasurer

RECOMMENDATION APPROVED:

SOLON "DOC" WISHAM
Asst. City Manager

April 15, 1986

Attachment



CITY OF SACRAMENTO

OFFICE OF THE TREASURER

800 - 10TH STREET
SUITE 1

SACRAMENTO, CA 95814
TELEPHONE (916) 449-5318

THOMAS P. FRIERY
TREASURER

DONALD E. SPERLING
ASST. TREASURER

April 3, 1986

860077:Treas:formpfc:dc:lv

Sacramento City Council
Sacramento, CA 95814

Honorable Members in Session:

SUBJECT: Formation of City of Sacramento Public Facilities Financing Corporation

SUMMARY

It is recommended that the City Council approve the attached Resolution authorizing the formation of the City of Sacramento Public Facilities Financing Corporation (PFFC). The PFFC would act as lessor for the City's Certificate of Participation (COP) and/or Lease Revenue Bond financings. Once established, the PFFC would save the City approximately \$11,500 for the first financing accomplished and \$16,500 for each subsequent financing.

BACKGROUND

COP and Lease Revenue Bond financings require an entity to act as lessor in order to lease to the City the financed facilities. Traditionally the banking system has offered to perform such services for a fee. Recently however, the costs associated with the lessor function have increased substantially. The costs have increased from approximately \$10,000 per issue several years ago to approximately \$17,500 per issue presently. As a result a number of Cities and Counties (including the County of Sacramento) have formed PFFC's to perform lessor duties. Since the City of Sacramento plans to utilize COP and/or Lease Revenue Bonds as the vehicle for future financings, we propose the formation of the non-profit PFFC as a more cost effective method of providing the lessor service.

The primary and specific purpose of the PFFC would be to act as the lessor in all COP and/or Lease Revenue Bond financings of the City. To create the PFFC it would be necessary to form a non-profit corporation and appoint three persons to serve as the Board of Directors (President, Vice President and Chief Financial Officer required). The Board would meet on an as needed basis or at least once a year to assist in financing the projects of the City. Generally speaking, no actual compensation is paid for serving on this Board although out-of-pocket travel expenses are reimbursed. The selection process for Board members has generally been to

appoint retired City executives familiar with the importance of the City's financing needs. It should be considered that this Board could delay a financing by refusing to sign lessor documents which could potentially, jeopardize the financing or CIP projects of the City.

It is recommended that a panel consisting of the City Manager, Treasurer and Finance Director be appointed to recommend Board members for Council approval. It is necessary to form this corporation prior to a proposed City COP financing which will include the FMIS system.

FINANCIAL

There are some one-time costs associated with setting up the PFFC as well as annual operating costs. The estimated costs associated with the formation and operation of the PFFC are:

\$3,000 - \$4,000

A one-time cost to Orrick Herrington for preparation of the necessary Articles of Incorporation, By-Laws, and filing of initial reports to Internal Revenue Service, State and County Agencies (reimbursable from first financing implemented)

\$1,500-\$2,000

Estimated one-time staff associated costs (reimbursable from first financing implemented)

The estimated annual costs to maintain the PFFC are:

1/ \$750 - \$1,000

Estimate of annual staff associated costs and Board expenses (which can be reimbursed from bond proceeds).

Presently lessor fees from the banking system are estimated at \$17,500 per issue. Recovery of the above one-time costs as well as annual operating costs should save the City \$11,500 for the first financing accomplished after formation of the PFFC and \$16,500 for each subsequent financing.

1/ It is envisioned the City Clerk's Office will serve as Secretary and the City Attorney's Office will serve as legal counsel for the PFFC. The PFFC is envisioned to meet annually (required by law) or more frequently if there are financings.

RECOMMENDATION

It is recommended that the City Council:

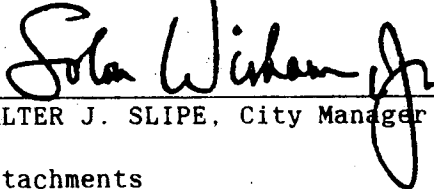
- Approve the attached Resolution which includes:
 - Directing the City Attorney to prepare the necessary ordinance to amend City Codes Chapter 2, Sections 126-32 and 126-2, to include the Public Facilities Board under the appointment procedures and conflict of interest reporting, and
 - Appointing the City Manager, City Treasurer and Finance Director to select the Board of Directors to be approved by the City Council and
- Approve Articles of Incorporation for formation of the PFFC.

Respectfully submitted,



THOMAS P. FRIERY
City Treasurer

RECOMMENDATION APPROVED:



WALTER J. SLIPE, City Manager

For:

Attachments

April 22, 1986

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

RESOLUTION APPROVING THE FORMATION OF THE CITY OF SACRAMENTO PUBLIC FACILITIES FINANCING CORPORATION

WHEREAS the City of Sacramento Public Facilities Corporation, a California non-profit public benefit corporation (herein called the "Corporation"), is being incorporated by a group of public spirited residents of this City for the specific and primary purpose of providing financial assistance to this City by financing the acquisition, construction, improvement and remodeling of public buildings and facilities, and equipment for the City of Sacramento including but not limited to administration facilities, together with parking, site development, landscaping, utilities, furnishings, improvements and all appurtenant and related facilities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sacramento, as follows:

1. The recital herein contained is true and correct and this Council so finds.
2. A panel consisting of the City Manager, City Treasurer, and Finance Director shall appoint three candidates to serve on this Board. Upon completion of this selection process the Council will approve said appointments.

3. The City Attorney is directed to prepare the necessary ordinance to amend City Code Chapter 2, to include the City of Sacramento Public Facilities Corporation within the conflict of interest and board appointment procedure..
4. This Resolution shall take effect from and after its date of adoption.

MAYOR

ATTEST:

CITY CLERK

ARTICLES OF INCORPORATION
OF
CITY OF SACRAMENTO PUBLIC FACILITIES
FINANCING CORPORATION

(A Nonprofit Public Benefit Corporation)

The undersigned do hereby associate themselves together for the purpose of forming a nonprofit public benefit corporation under and pursuant to the Nonprofit Public Benefit Corporation Law of the State of California (Title 1, Division 2, Part 2 of the California Corporations Code), and do hereby certify:

FIRST: The name of this Corporation is "City of Sacramento Public Facilities Financing Corporation" (hereinafter called the "Corporation").

SECOND: This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. The Corporation is organized under the Nonprofit Public Benefit Corporation Law for public purposes. The specific and primary purpose for which the Corporation is formed is to provide assistance to the City of Sacramento, California, in financing the acquisition, construction, improvement and remodeling of public buildings, facilities and equipment for the City of Sacramento, including but not limited to administration facilities, together with parking, site development, landscaping,

utilities, furnishings, improvements and all appurtenant and related facilities.

Incidental to and in order to carry out the foregoing purpose, the Corporation shall have and possess, subject to the provisions of these Articles, all powers now or hereafter conferred upon nonprofit public benefit corporations by the laws of the State of California, with the following limitation: The Corporation shall never engage in any activity other than such activities as may be incidental to and for the purpose of carrying out the primary purpose for which the Corporation is formed for and on behalf of the City of Sacramento.

THIRD: The Corporation is organized as a nonprofit public benefit corporation, without capital stock and without members. No gains, profits or dividends shall be distributed to any of the directors or officers of the Corporation, and no part of the net earnings, funds or assets of the Corporation shall inure to the benefit of any director, officer or individual, or any other person, firm or corporation excepting only the City of Sacramento. No part of the activities of the Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, nor shall it participate in, or intervene in, or publish or distribute statements concerning, any political campaign on behalf of any candidate for public office. The property of the Corporation is irrevocably dedicated to the

City of Sacramento; provided, however, that until all indebtedness of the Corporation shall have been paid, such property and any net revenues therefrom may be used for the purpose of paying and retiring such indebtedness.

FOURTH: The name and address of the initial agent for service of process of the Corporation is Lorraine Magana, City Clerk, City Hall, 915 "I" Street, Sacramento, California 95814.

FIFTH: The number of directors of the Corporation shall be three (3), until such number shall be changed by an amendment to these Articles.

SIXTH: These Articles of Incorporation may be amended only with the written consent of the City Council of the City of Sacramento and by approval of the board of directors of the Corporation.

SEVENTH: Upon any liquidation, dissolution or winding up of the Corporation, after paying or adequately providing for the debts and obligations of the Corporation,

the directors shall distribute and transfer all remaining assets of the Corporation to the City of Sacramento.

IN WITNESS WHEREOF, the undersigned has executed these presents this ____ day of _____ 1986.

BYLAWS
OF
CITY OF SACRAMENTO PUBLIC FACILITIES
FINANCING CORPORATION

ARTICLE I

Name, Organization and Purpose,
Principal Office, Seal

Section 1.01. Name. The name of this corporation is "City of Sacramento Public Facilities Financing Corporation" (hereinafter referred to as the "Corporation").

Section 1.02. Organization, Purpose and Use of Funds. The Corporation is a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law of the State of California to provide assistance to the City of Sacramento, California, in financing the acquisition, construction, improvement and remodeling of public buildings, facilities and equipment for the City of Sacramento, including but not limited to administration facilities, together with parking, site development, landscaping, utilities, furnishings, improvements and all appurtenant and related facilities. The activities of the Corporation shall be limited to the activities described in its Articles of Incorporation. No gains, profits or dividends shall be distributed to any of the directors or officers of the Corporation, and no part of the net earnings, funds or assets of the Corporation shall

inure to the benefit of any director, officer or individual or any other person, firm or corporation excepting only the City of Sacramento.

Section 1.03. Principal Office. The principal office of the Corporation shall be in the City of Sacramento, State of California.

Section 1.04. Seal. The corporate seal of the Corporation shall set forth the name of the Corporation and shall have inscribed thereon the words "Incorporated _____, 1986, California."

ARTICLE II

Membership

Section 2.01. The Corporation shall have no members. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board of Directors. All rights which would otherwise vest in the members shall vest in the directors.

ARTICLE III

Directors

Section 3.01. Number of Directors, Term of Office. The Board of Directors shall consist of three (3) persons. The number of directors may be changed by amendment of the Articles of Incorporation. The names and addresses of the persons who are appointed to act as the first directors

of the Corporation, until the selection of their successors,
are as follows:

<u>Name</u>	<u>Address</u>
-------------	----------------

Each of the three (3) directors shall hold office until the selection and qualification of his or her successor or until his or her death, resignation or removal, whichever occurs earlier. No person shall be eligible to serve as a director except a person who has been initially approved as a director by resolution of the City Council of the City of Sacramento.

Section 3.02. Organization Meeting. The first Board of Directors may at any time hold an organizational meeting at which the directors shall organize by electing from their number a President, a Vice President and a Chief Financial Officer. In addition, the Board of Directors shall elect a Secretary and may elect such subordinate officers as they may determine, none of whom need be a director of the Corporation. Each officer shall hold office until the

election and qualification of his or her successor or until his or her death, resignation or removal.

Section 3.03. Place of Directors' Meetings.

Meetings of the directors shall be held at such place in the City of Sacramento, or elsewhere, as may be designated in the notice of meeting or by resolution of the Board of Directors.

Section 3.04. Regular Meetings. The Board of

Directors by resolution may provide for the holding of regular meetings and may fix the time and place of holding such meetings. Notice of regular meetings need not be given.

Section 3.05. Special Meetings, Notice, Waiver. A

special meeting of the Board of Directors shall be held whenever called by the President, by the Vice President, or by any two (2) directors. Each such meeting shall be held upon notice by first-class mail posted at least forty-eight (48) hours before the day on which the meeting is to be held or upon notice delivered personally or by telephone or telegraph, charges prepaid, at least twenty-four (24) hours before the day on which the meeting is to be held. Notice of adjournment of a meeting need not be given to absent directors if the time and place are fixed at the meeting adjourned. The transactions of any meeting of the Board of Directors, however called and noticed and wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present and if each of the directors either signs a written waiver of notice or a

written consent to the holding of such meeting or an approval of the minutes thereof, whether before or after the meeting, or attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

Section 3.06. Action by Written Consent. Any action required or permitted to be taken by the Board of Directors under any provision of law or these Bylaws may be taken without a meeting if all members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors. Such action by written consent shall have the same force and effect as a unanimous vote of such directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Bylaws of this Corporation authorize the directors to so act and such statement shall be prima facie evidence of such authority.

Section 3.07. Quorum and Manner of Action. At all meetings of the Board of Directors a majority of the directors in office at the time, present in person at such meeting, shall be sufficient to constitute a quorum. Unless

a greater number is expressly required by statute or by these Bylaws, every act or decision done or made by a majority of the directors present at a meeting duly held, at which a quorum is present and acting, shall be regarded as the act of the Board of Directors.

Section 3.08. Conduct of Meetings. The President or, in his or her absence, the Vice President, or, in the absence of the Vice President, a chairperson chosen by a majority of the directors present, shall preside.

Section 3.09. Resignations and Vacancies. Any director of the Corporation may resign at any time by giving written notice to the President or to the Board of Directors, and, where such resignation would leave the Corporation without a duly elected director or directors in charge of its affairs, to the Attorney General of the State of California. Such resignation shall take effect at the time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

A vacancy or vacancies in the Board shall be deemed to exist in the event of the death, resignation or removal of any director. Any vacancy in the Board of Directors shall be filled by a majority of the remaining directors, whether or not less than a quorum, subject to the approval of the City Council of the City of Sacramento. Each director so selected

shall hold office until his or her death, resignation or removal.

Section 3.10. Compensation of Directors. No director shall be entitled to receive any compensation for serving as a director or as an officer of the Corporation.

Section 3.11. Removal of Directors. Any director may be removed by the vote of a majority of all directors or, for cause, by the City Council of the City of Sacramento which may then appoint a successor to such director.

Section 3.12. Notice to City of Sacramento. Notice of all meetings of the Board of Directors of the Corporation shall be given by the Secretary or an Assistant Secretary of the Corporation to the Mayor and the City Clerk of the City of Sacramento. Representatives of the City of Sacramento may attend and may make comments at all such meetings.

ARTICLE IV

Powers of Board of Directors

Section 4.01. General Powers of Board of Directors. All corporate powers shall be exercised by or under the authority of, and the business, property and affairs of the Corporation shall be controlled by, the Board of Directors.

Section 4.02. Indemnification. To the full extent permitted by law, the Board of Directors may authorize indemnification by the Corporation of any person who is or

was a director, officer, employee or other agent of the Corporation, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was an agent of the Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Corporation, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Section 4.03. Incurring of Indebtedness. The Board of Directors, on behalf of the Corporation, may incur such indebtedness for the proper purposes of the Corporation as the Board may deem necessary or appropriate, may issue bonds, notes, debentures and other evidences of indebtedness of the Corporation, may secure the same by mortgage, transfer in trust, pledge or other encumbrance of the whole or any part of the assets of the Corporation, and may establish funds and make other provisions for the payment of such indebtedness and interest thereon.

ARTICLE V

Officers

Section 5.01. Number and Qualifications. The officers of the Corporation shall be a President, a Vice President, a Secretary and a Chief Financial Officer and such subordinate officers, including one or more assistant secretaries and assistant financial officers, as the Board of Directors may elect. Only directors shall be qualified to hold the office of President, Vice President and Chief Financial Officer, but the Board of Directors may elect any person, whether or not a director of the Corporation, to hold the office of Secretary or any subordinate office.

Section 5.02. Election, Term of Office. Each officer shall be elected by the Board of Directors and shall hold office until his or her successor shall have been elected and qualified, or until the death, resignation or removal of such officer.

Section 5.03. Resignations. Any officer may resign at any time by giving written notice to the President or to the Board of Directors of the Corporation. Any such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.04. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or

any other cause, shall be filled in the manner prescribed in these Bylaws for regular election to such office.

Section 5.05. President. The President shall be the chief executive officer of the Corporation and shall have general supervision over the business of the Corporation, subject, however, to the control of the Board of Directors. The President shall preside at all meetings of the Board of Directors. The President may sign and execute, in the name of the Corporation, deeds, mortgages, leases, bonds, contracts and other instruments duly authorized by the Board of Directors, and generally shall perform all duties incident to the office of President and such other duties as may from time to time be assigned to such office by the Board of Directors.

Section 5.06. Vice President. At the request of the President or in case of his or her absence or disability, the Vice President shall perform all duties of the President and, when so acting, shall have all the powers of, and be subject to all restrictions upon, the President. In addition, the Vice President shall perform such other duties as may from time to time be assigned to that office by the Board of Directors or the President.

Section 5.07. Secretary. The Secretary shall:

(a) Certify and keep at the office of the Corporation, or at such other place as the Board of Directors may

order, the original or a copy of the Bylaws, as amended or otherwise altered;

(b) Keep at the office of the Corporation, or at such other place as the Board of Directors may order, a book of minutes of all meetings of the directors, recording therein the time and place of holding, whether regular or special, and, if special, how authorized, the notice thereof given, and the proceedings thereat;

(c) See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law;

(d) Be custodian of the records and seal of the Corporation;

(e) Exhibit at all reasonable times to any director, upon application, the Bylaws and minutes of the proceedings of the directors of the Corporation; and

(f) In general, perform all duties of the office of Secretary and such other duties as may from time to time be assigned to such office by the Board of Directors or the President.

Section 5.08. Chief Financial Officer. The Chief Financial Officer shall receive and have charge of all funds of the Corporation and shall disburse such funds only as directed by the Board of Directors. The Chief Financial Officer shall, in general, perform all duties incident to the office of Chief Financial Officer and such other duties as

may from time to time be assigned to such office by the Board of Directors or the President.

Section 5.09. Subordinate Officers. Subordinate officers shall perform such duties as shall be prescribed from time to time by the Board of Directors or the President.

ARTICLE VI

Dissolution

Section 6.01. The Corporation shall not be voluntarily dissolved except by approval of the Board of Directors. In the event of dissolution of the Corporation in any manner and for any cause, after the payment or adequate provision for the payment of all of its debts and liabilities, all of the remaining funds, assets and properties of the Corporation shall be paid or distributed to the City of Sacramento.

ARTICLE VII

General

Section 7.01. Fiscal Year. The fiscal year of the Corporation shall begin July 1 and end June 30 of each year, except the first fiscal year which shall run from the date of incorporation to June 30, 1986.

Section 7.02. Brown Act. To the extent required by law, the Corporation shall comply with the provisions of the Ralph M. Brown Act, Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code (commencing with Section 54950).

ARTICLE VIII

Amendment of Bylaws and
Articles of Incorporation

Section 8.01. Amendment of Bylaws. With the written consent of the City of Sacramento, any of these Bylaws may be amended or repealed, and new Bylaws may be adopted, by vote or written consent of the Board of Directors.

Section 8.02. Amendment of Articles of Incorporation. The Articles of Incorporation of the Corporation may be amended only with the written consent of the City Council of the City of Sacramento and by approval of the Board of Directors of the Corporation.

SECRETARY'S CERTIFICATE

The undersigned hereby certifies that the undersigned is the Secretary of the City of Sacramento Public Facilities Financing Corporation, a California nonprofit public benefit corporation; that the foregoing is a full, true and correct copy of the Bylaws of said Corporation; and that said Bylaws are in full force and effect as of the date hereof.

Dated: _____, 1986.

Secretary

[SEAL]