

## **PUBLIC FACILITIES CORPORATION**

### **BACKGROUND**

The Grand Jury initiated an inquiry into the Ventura County Public Facilities Corporation (PFC.) We wanted to know the PFC's organizational history, description of the financial projects, funding mechanisms used, and the relationship of the PFC to the county.

### **INQUIRY**

The Grand Jury obtained information from the PFC, Assistant County Counsel, Chief Deputy Administrative Officer, Auditor-Controller (AC), and Public Works Agency (PWA).

We reviewed PFC's original Articles of Incorporation and Bylaws, including all meeting minutes for the past two years, and financial statements for the period ended December 31, 1996, to determine its financial profile.

We interviewed two members of the PFC Board of Directors (Directors) and attended a PFC Board of Directors' meeting for general information.

### **FINDINGS**

1. In 1973, county staff and members of the Board of Supervisors (Board) sought out and selected five individuals interested in the forming of a nonprofit public benefit corporation to assist the county in acquiring, purchasing, constructing, installing, and financing real property, facilities and equipment needed for county operations. These five persons incorporated the Ventura County Public Facilities Corporation (PFC) and were its original Directors.
2. PFC's original Articles of Incorporation were filed with the California Secretary of State on January 15, 1974. The original PFC Bylaws were adopted by the Directors on February 13, 1974.
3. In 1974, a general obligation bond measure received a majority vote but failed to receive the required two-thirds approval of county voters. That ballot measure would have provided funding to construct the County Administration and Hall of Justice facilities, and cure an inefficient and inadequate county operation. The failure of this bond measure was the impetus for the PFC's implementation process and was deemed to be an appropriate action since no additional property tax assessments were required.
4. PFC Directors, with one exception, have served continuously since its inception. They serve a one year term and have been reelected by the Directors at its annual general meeting held each September.
5. All Directors' meetings are conducted in accordance with the provisions of the Brown Act and are properly noticed. The Directors serve without pay and can be considered volunteers interested in the county public welfare.
6. Annually, PFC contracts with an independent auditor to examine its books and records.

7. The California Corporations Code has authorized the creation of nonprofit, public benefit corporations since 1974. Such corporations are legal entities, separate and distinct from counties, and their creation is not dependent on "use ...by the county government." PFC is a separate, legal entity from the county, and the Board has no "regulatory" power over it.
8. In the 1950s, California Supreme Court cases clearly established that lease financing without obtaining voter approval did not violate the provisions of the California Constitution prohibiting incurrence of indebtedness without a two-thirds approval of the voters.

The Legislature enacted various statutes to facilitate lease financing between a county and a corporation, including government Code Section 25371, enacted in 1951. This law authorizes a lease with improvements, and a leaseback between a county and a corporation, and excludes such a transaction from the general rule of competitive bidding in the leasing of county property.

In 1974, the Legislature enacted Government Code Section 54240 et. seq. providing a procedure for carrying out certain types of public leaseback.

In 1987 the Legislature amended Government Code Section 25536 to authorize leases without competitive bidding if the county leases the property back as part of the same transaction.

Each separate provision of law independently authorizes the county to enter into a lease/leaseback arrangement with PFC, using the lease as a financing vehicle.

9. The county's participation in such financing requires the use of special bond counsel, financial advisors, rating services, and other professional experts to ensure that the transaction(s) meet all legal and financial standards. Counsel for the underwriters, trustees, and rating services also review the transaction's legality. Expert involvement ensures that the financing is legal, acceptable to the financial marketplace, and carried out at the most favorable interest rate.
10. The last bond ratings for the PFC were for the projects identified as PFC IV. The rating for Moody's was A1 and for Standard and Poor's was A+ which are considered good.
11. PFC uses county resources for project evaluation data and recommendations. These services are charged against the specific project using Board approved contract rates.
12. The AC bears responsibility for preparing the financial elements for each project and the specifications required for soliciting proposals from financial institutions.
13. Criteria for undertaking debt is documented in a comprehensive Debt Policy Manual prepared and used by the AC. A Financial Planning Committee analyzes the debt criteria for a specific project and develops its recommendations to the Board. The committee is comprised of two Board members, the County Treasurer, Chief Administrative Officer, County Counsel, and AC who serves as Chair,
14. Criteria required by lenders (underwriters) in submitting proposals are (1) experience with the type of issue to be used, (2) ability to best market the issue, and (3) cost of the underwriter's services.
15. Lender contracts are approved by the Board. Project funding provided by lenders is deposited and administered under a trust agreement.

16. Lenders (underwriters) used thus far have been United California Bank (PFC IA), Bank of America (PFC IB) and First Boston Corporation (PFCs II, III and IV).
17. There are strict guidelines in the borrowing documents which set forth the criteria for utilization of the funds. The Board approves projects and, prior to reimbursement from PFC funds, the AC assures that all projects meet these strict guidelines.
18. PWA provides the necessary plans, specifications and contract documents for a typical PFC financed construction project. These documents are generally prepared by a professional consultant under contract to the county. The Consultant is selected using standard procurement procedures; a contract is then negotiated by PWA staff, approved by the Board, and managed by PWA.
19. The competitive bidding process is performed by PWA. The contract award is approved by the Board and administered by PWA.
20. PFC has been used four times to obtain financing for capital improvements, buildings, and land acquisitions. PFC utilized Leasehold Mortgage Bonds to provide funding for the County Administration Building and the Hall of Justice (PFC IA and PFC IB). These improvements were pledged as collateral. PFC subsequently utilized Certificates of Participation (COPs) to complete the following projects enumerated below as PFC II, III and IV.

<i>Project name:</i>	PFC IA	
<i>Year:</i>	1976	
<i>Types of issue:</i>	Leasehold Mortgage Bonds - Series A	
<i>Project &amp; Amt.</i>		
<i>Borrowed:</i>	County Administration Building	\$27,500,000
<b>Total for PFC IA:</b>		<b>\$27,500,000</b>
<b>Total Outstanding Balance (as of 12/31/96):</b>		<b>\$0</b>

<i>Project name:</i>	PFC IB	
<i>Year:</i>	1976	
<i>Types of issue:</i>	Leasehold Mortgage Bonds - Series B	
<i>Project &amp; Amt</i>		
<i>Borrowed:</i>	Hall of Justice (HOJ)	\$31,000,000
<b>Total for PFC IB:</b>		<b>\$31,000,000</b>
<b>Total Outstanding Balance (as of 12/31/96):</b>		<b>\$12,400,000</b>

<i>Project name:</i>	PFC II	
<i>Year:</i>	1985	
<i>Types of issue:</i>	Certificate of Participation	
<i>Project &amp; Amt</i>		
<i>Borrowed:</i>	E. Valley Law Enforcement Fac.	\$13,390,000
	Medical Center Remodel	4,224,600
	Medical Center Parking Lot	552,800
	Oxnard Office Building (PSSA, Mental Health, CSA)	9,885,850
	Purchase Fire Apparatus (85/86 Grand Jury Rec.)	5,289,000
	Telephone Road Building	6,421,951

<b>Total for PFC II:</b>		<b>\$51,765,000</b>
(includes capitalized interest, reserve, costs of issuance, administration, and underwriters' discounts totalling \$12,000,799)		
<b>Total Outstanding Balance (as of 12/31/96):</b>		<b>\$0</b>
<i>Project name:</i>	PFC III	
<i>Year:</i>	1987	
<i>Types of issue:</i>	Certificates of Participation	
<i>Project &amp; Amt Borrowed:</i>	Refunding (refinancing) of 1985's PFC II (Estimated savings of \$2,821,000)	\$34,148,584
	East County Courthouse	7,235,916
	Main Jail Improvements	1,265,678
	New Jail	7,054,410
	Work Furlough	379,217
	Rose Valley Facility	270,638
	Helicopter	689,498
	Microwave Equipment	886,498
	Computer Upgrades	1,972,949
	Fire Communication Equipment	1,170,887
	Lease Buyout	4,144,985
	Dec. 1, 1987 payment on 1985 Fire Apparatus	279,441
<b>Total for PFC III:</b>		<b>\$64,407,939</b>
(includes capitalized interest, reserve, underwriter's discount, costs of issuance, accrued interest totalling \$4,909,238)		
<b>Total Outstanding Balance (as of 12/31/96):</b>		<b>\$26,310,000</b>
<i>Project name:</i>	PFC IV	
<i>Year:</i>	1993	
<i>Types of issue:</i>	Certificate of Participation	
<i>Project &amp; Amt Borrowed:</i>	New Jail	\$12,545,513
	Medical Examiner Facility	2,350,041
	Mental Health Facility	6,843,782
	West Ventura Clinic	1,974,006
	Vanguard Parking Lot	787,754
	Purchase of Office Building	3,800,000
<b>Total for PFC IV:</b>		<b>\$34,345,446</b>
(includes capitalized interest, reserve, accrued interest totalling \$6,044,350)		
<b>Total Outstanding Balance (as of 12/31/96):</b>		<b>\$29,735,000</b>
<b>Grand Total of all PFC:</b>		<b><u>\$208,830,000</u></b>
<b>Grand Total Outstanding Balance (as of 12/31/96):</b>		<b><u>\$68,445,000</u></b>

21. With county staff/professional assistance, PFC acts as the conduit between the county and the bond holders for:
  - a. Marketing the Bonds/COPs on the financial market
  - b. Providing for the construction of the specified facilities
  - c. Acting as the landlord (collecting lease revenues from the county)
  - d. Using the lease revenues to pay for the principal and interest payments on the indebtedness

The rent paid by the county under lease/financing on any one or more capital projects is based on fair rental value and is sufficient to pay the principal and interest payment due on the debt obligation. The county makes payment semiannually and pays at least fifteen days prior to the due date.
22. Upon retirement of the obligation(s), the PFC then conveys property title to the county.
23. PFC has accumulated excess interest over bond debt and reserve requirements on each of the four major PFC projects as follows:
  - a. \$11,200,000 for PFC I (from 2/76 to 6/96), \$10,306,000 was used to reduce lease payment, the balance is kept in reserve.
  - b. \$8,761,000 for PFC II (from 5/85 to 6/96).
  - c. \$3,792,000 for PFC III (from 2/87 to 6/96). This amount does not include interest earned on the \$34 million of escrowed funds for the repayment of the 1985 COP II; interest was used as part of the repayment.
  - d. \$1,575,000 for PFC IV (from 2/93 to 6/96)
24. PFC recently transferred \$8,236,000 excess interest earnings from the trustee to the county. A review of the financial statements revealed that these funds are earmarked for the following capital improvements:
  - a. \$2,500,000 New Accounting System (Financial Management System)
  - b. \$ 585,000 Pretrial Detention Facility - Jail doors
  - c. \$ 976,000 Various Capital Projects
  - d. \$1,500,000 Capital Project - year 2000 reprogramming
  - e. \$2,675,000 East Valley Facility
25. The AC's office is the oversight agency for all funds returned to the county by the PFC. Such funds can only be expended for capital projects identified by the AC as having an estimated life of more than one year and a minimum cost of \$3,000.
26. In 1996 the PFC reviewed a proposal, identified as PFC V, involving a capital improvement project for the Ventura County Medical Center. Certificates of Participation were authorized by the Board as the vehicle for providing the funding. Because this issue became highly controversial, the Board subsequently rescinded its action.

**CONCLUSIONS**

1. The Board and the Directors appear to have complied with all the necessary requirements in the use of the PFC.
2. The use of lease/financing by the County/PFC has allowed the Board to provide essential capital projects without the need for special property tax assessments.
3. The Directors provide an invaluable service to the Board and county residents by lending their expertise on a volunteer basis.
4. County citizens may purchase COPs as part of their own investment portfolio. Generally, COPs come in \$5,000 denominations.
5. Since market conditions are ever changing, PFC can and has refinanced other PFC debts.

**RECOMMENDATIONS**

1. Future major capital projects financed through PFC must continue to be thoroughly evaluated and publicly aired by the Board to ensure that the best interests of county residents are considered.
2. The PFC Board of Directors must continue to exercise unbiased judgment in evaluating and approving county capital projects.
3. The Auditor-Controller must continue its "watchdog" oversight function for all funding made available through use of the PFC.

**RESPONSE REQUIRED**

Board of Supervisors  
Chief Administrative Officer  
Auditor-Controller