

RESOLUTION NO. 2689

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
APPROVING AN AGREEMENT AND AUTHORIZING THE
CITY TO JOIN THE PACIFIC HOUSING AND
FINANCE AGENCY - A JOINT
POWERS AUTHORITY
(JPA)**

WHEREAS, the City Council of the City of Soledad continually looks for innovative ways to promote home ownership opportunities to all segments of the community; and

WHEREAS, the City of Soledad seeks to promote home ownership to improve the City's housing stock and to further economic development for the welfare of its residents; and

WHEREAS, the City Council of the City of Soledad has adopted the promotion of home ownership as one of its priority goals in the Housing Element of the General Plan; and

WHEREAS, there is a growing need for the cities to find new and cooperative ways to develop programs that will increase home ownership and improve community life; and

WHEREAS, the Pacific Housing and Finance Agency is a cooperative approach between cities that will increase home ownership and thereby improve the quality of community life for those cities participating in the Authority; and

WHEREAS, the City of Soledad will further its adopted goal of promoting home ownership within the community through membership in the Pacific Housing and Finance Agency; and

WHEREAS, the Pacific Housing and Finance Agency provides home ownership programs individually tailored for each member City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOLEDAD DOES HEREBY RESOLVE AS FOLLOWS:

Section 1: That the City Council of the City of Soledad hereby approves the Joint Exercise of Powers Agreement Creating the Pacific Housing and Finance Agency (the "Agreement") hereunto attached, marked "Exhibit A," and by reference made a part hereof.

Section 2: The City Manager is hereby authorized to affix her signature to this resolution signifying its adoption by the City Council of the City of Soledad and the City Clerk is directed to attest thereto.

PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 5th day of August, 1998 by the following vote:

AYES, and in favor thereof, Councilmembers: Ben Jimenez, Jr., Mayor Pro Tem
Gary Gerbrandt, Mayor Fabian Barrera

NOES, Councilmembers: None

ABSENT, Councilmembers: Richard Ortiz, Fred Ledesma

John M. Barrio
MAYOR OF THE CITY OF SOLEDAD

ATTEST:

Bue
CITY CLERK OF THE CITY OF SOLEDAD

EXECUTION COPY

**JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE PACIFIC HOUSING & FINANCE AGENCY**

Dated as of September 1, 1997

**JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE PACIFIC HOUSING & FINANCE AGENCY**

This Joint Exercise of Powers Agreement (the "Agreement"), dated for convenience as September 1, 1997, is made and entered into by the signatories hereto, each a public entity duly organized and existing under the Constitution and laws of the State of California (each a "Member" or a "City," and collectively, the "Members").

RECITALS

WHEREAS, the Members are each authorized and empowered to provide home mortgage loans to qualified persons and families; finance the construction, rehabilitation, acquisition, lease, and sale of housing; promote economic development; finance other capital improvements; and issue revenue bonds to provide the funds therefor; and

WHEREAS, Chapter 5 of Division 7 of Title 1 of the California Government Code (commencing at Section 6500) (the "Act") provides that two or more public agencies may by agreement jointly exercise any powers common to the parties to the agreement and may by that agreement create an entity which is separate from the parties to the agreement; and

WHEREAS, the parties to this agreement have each determined (1) that the public interest and economy will be served by, and require, the joint exercise of their common powers and (2) that a separate agency shall be created which shall have and exercise those powers common to the Members;

NOW, THEREFORE, for and in consideration of the mutual benefits and premises contained herein, the Members agree as follows:

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall have the meanings herein specified for all purposes of this Agreement.

Agency

The term "Agency" shall mean the Pacific Housing & Finance Agency created by this Agreement.

Agreement

The term "Agreement" shall mean this Joint Exercise of Powers Agreement as it now exists or as it may from time to time be amended, supplemented or modified by the addition of

signatory parties or by any supplemental agreement or amendment entered into pursuant to the provisions hereof.

Associate Member

The term "Associate Member" shall mean those Members identified as such in Section 3.03, and which shall not be entitled to appoint a representative to serve on the Board.

Board

The term "Board" shall mean the governing board of directors of the Agency as described in Article 8 hereof.

Bonds

The term "Bonds" shall mean revenue bonds, notes, certificates of participation, or other evidences of indebtedness of the Agency, authorized and issued pursuant to law.

Members

The term "Members" shall mean the governmental entities jointly exercising power through, and which are signatory to, this Agreement. The Members may also be referred to as the "Cities."

Program

The term "Program" shall mean the Agency's activity of furthering home ownership in the geographical area of the Members signatory to this Agreement and of financing other capital improvements, through the sale of revenue bonds, the purchase, construction or rehabilitation of housing or other capital improvements, the entering into of leases, the sale of housing, the provision of low-down-payment mortgages for buyers, and the exercise of any other powers available to the Agency under Article 2 or Article 4 of the Act.

Voting Members

The term "Voting Members" shall mean those Members identified in Section 3.02 as such, and which shall be entitled to appoint a representative to serve on the Board as a voting member.

Section 1.02. Captions and Headings. Captions and headings used herein are for convenience of reference only, do not define or limit the scope of any provision hereof, and are not to be considered in construing this Agreement.

ARTICLE 2 PURPOSE

Section 2.01. Purposes of Agreement and Agency. This Agreement is made pursuant to the Act for the joint exercise of certain powers common to the Members. The Members are empowered by the laws of the State of California to exercise powers as specified in the Recitals. It is also the purpose of this Agreement to provide for the inclusion at a subsequent date of such additional Members as may desire to become signatories to this Agreement and members of the Agency. The purpose of the Agency is to carry out the Program for the public good and for the residents who will benefit from the increased availability of housing affordable for purchase by them.

ARTICLE 3 MEMBERSHIP; WITHDRAWAL

Section 3.01. Contract With All Other Members. Each Member certifies that it intends to and does contract with all other Members which are signatories to this Agreement and with such other Members as may later be added as signatories to this Agreement. Each Member also certifies that the deletion of any Member as a party to this Agreement, except as a joint effort to terminate the Agreement pursuant to Section 7, shall affect neither this Agreement nor its intent to contract with the remaining Members to carry out the purpose of this Agreement. All Members to this Agreement acknowledge and agree that additional parties may become Members to this Agreement without formal amendment hereof, by the execution of a counterpart signature page.

Section 3.02. Voting Members. The Voting Members of the Agency are listed on Exhibit A, attached hereto, and shall be entitled to appoint a City Councilmember or City staff member to serve on the Board.

Section 3.03. Associate Members. The Associate Members of the Agency are listed on Exhibit B, attached hereto, and shall not be entitled to appoint a City Councilmember or City staff member to serve on the Board, and shall not have voting power on such Board.

Section 3.04. Withdrawal. Members of the Agency may withdraw from membership in the Agency at any time upon thirty (30) days' advance written notice, subject to the following exceptions:

- (a) the restriction on withdrawal contained in Section 7.01 hereof; and
- (b) a Member may not withdraw for so long as loans are being made under the Program.

**ARTICLE 4
CREATION OF THE AGENCY**

Section 4.01. Creation of the Agency. There is hereby created a joint exercise of powers authority to be known as the Pacific Housing & Finance Agency. The Agency shall be a public entity separate from the Members. The debts, liabilities, and obligations of the Agency shall not constitute debts, liabilities, or obligations of any Member.

**ARTICLE 5
POWERS OF THE AGENCY; RESTRICTION UPON EXERCISE**

Section 5.01. Powers of the Agency. The Agency shall have all powers common to the Members and is hereby authorized to do all acts necessary for the exercise of said common powers, including, but not limited to, the following:

- (a) the power to make and enter into contracts;
- (b) the power to accept the assignment of contracts which relate to the purposes of the Agency and which were entered into by the Members prior to formation of the Agency;
- (c) the power to incur debts, liabilities, or other obligations which are not debts, liabilities or obligations of the Members, or any of them;
- (d) the power to employ agents and employees;
- (e) the power to acquire, construct, manage, maintain, and operate any building, works or improvements;
- (f) the power to acquire, hold, lease (as lessor or lessee), or dispose of property, including property subject to home mortgages;
- (g) the power to sue and be sued in its own name;
- (h) the power to incur debts, liabilities or other obligations to finance the Program and any other powers available to the Agency under Article 2 or Article 4 of the Act; and
- (i) all powers necessary and proper to carry out the terms and provisions of this Agreement, or otherwise authorized by law.

Section 5.02. Membership Agreements. The Agency shall have the power to enter into membership agreements with any public agency upon the approval of the Board.

Section 5.03. Other Powers. Each Member agrees that:

- (a) all of its powers to acquire, construct, rehabilitate, finance, lease, or dispose of property may be exercised by the Agency;
- (b) the Agency may originate or acquire home mortgages with respect to properties within its geographical boundaries to further the Agency's Program; and
- (c) its grant of power to the Agency is to further the purposes of the Agency and this Agreement and shall not be deemed to limit its power to act independently of the Agency.

Section 5.04. Restrictions. The powers of the Agency shall be exercised subject only to the restrictions upon the manner of exercising such powers as are imposed upon the City of Carson, California, as provided in Section 6509 of the Act.

Section 5.05. Investments. Subject to the applicable provisions of any indenture or resolution providing for the investment of moneys held thereunder, the Agency shall have the power to invest any money in the treasury that is not required for the immediate necessities of the Agency, as the Agency determines is advisable, in the same manner as local agencies pursuant to California Government Code Sections 53601 et seq.

ARTICLE 6 COOPERATION

Section 6.01. Additional Proceedings and Actions. Each Member agrees to undertake such additional proceedings or actions as may be necessary in order to carry out the terms and the intent of this Agreement.

Section 6.02. Actions Affecting Ratings. Each Member further agrees to refrain from taking any actions which would, to its knowledge, tend to adversely affect the rating on any Bonds sold or to be sold to further the Program of the Agency. The exercise by any Member of its independent power to issue bonds or other indebtedness shall not be within the restrictions of the preceding sentence.

ARTICLE 7 TERMINATION OF POWERS; DISTRIBUTION OF ASSETS

Section 7.01. Termination. The Agency shall continue to exercise the powers herein conferred upon it until the earlier of September 1, 2047 or such time as all Members shall have mutually agreed to terminate this Agreement. However, if any Bonds shall have been issued and are outstanding, then neither this Agreement nor the powers granted hereunder shall terminate, and Members benefiting from such Bonds, directly or indirectly, shall not withdraw from the

Agency, until all such Bonds and the interest thereon shall have been paid or provision for such payment shall have been made.

Section 7.02. Distribution of Assets.

(a) In the event that Bonds are not issued, upon termination of this Agreement, all assets of the Agency shall be distributed to the respective grantors or assignors in proportion to their respective contributions.

(b) In the event that Bonds are issued and following payment of all principal and interest on the Bonds, or following the provision therefor, upon termination of this Agreement, one half of all assets of the Agency shall be divided equally among the Voting Members, and the other half of the Agency's assets shall be divided pro rata among all Members, based on participation in the Program.

Section 7.03. Continued Existence of Agency. Upon termination, this Agreement and the Agency shall continue to exist for the limited purpose of distributing the assets of the Agency and all other functions necessary to close out the affairs of the Agency.

ARTICLE 8 GOVERNING BOARD

Section 8.01. Board of Directors. The Agency shall be governed by a Board of Directors consisting of one city council member or city staff member (each, a "Director," and collectively, the "Board") from each of the Voting Members. Each of the initial Directors shall be approved by their respective city councils forthwith upon approval of this Agreement, and each shall serve at the pleasure of his or her respective city council.

Section 8.02. Alternates. The city council of each Voting Member shall appoint one alternate to the Board of Directors, who shall be a member of the city council or of the staff of such city. When the Director from any Voting Member is not present at a Board meeting, the alternate director appointed by such Voting Member may serve in his place with the same authority as a Director.

Section 8.03. Compensation and Expenses. Directors may receive compensation for their services pursuant to an authorizing resolution of the Board providing therefor. Each member may be reimbursed for actual expenses, including travel incident to service as a Director, pursuant to an authorizing resolution of the Board.

ARTICLE 9 MEETINGS OF THE BOARD

Section 9.01. Regular Meetings. The Board shall hold at least one regular meeting each fiscal year and, by resolution, may provide for the holding of regular meetings at more frequent intervals. The regular meetings of the Board shall be held in the offices of one of the Voting Members or at such other place and upon a date and hour as may be fixed from time to time by resolution of the Board.

Section 9.02. Special Meetings. Special meetings of the Board may be called in accordance with the provisions of California Government Code Sections 54950 et seq. All meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act, being Sections 54950 et seq. of the California Government Code.

Section 9.03. Minutes. The Secretary of the Agency shall cause minutes of all meetings of the Board of Directors to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be distributed to each member of the Board and to each Member.

Section 9.04. Quorum. The attendance of a majority of the Board shall constitute a quorum for the transaction of business. A majority vote of those in attendance shall be necessary to take Board action, except that less than a quorum may adjourn a meeting from time to time.

Section 9.05. Voting. Each member of the Board shall have one vote.

ARTICLE 10 OFFICERS; DUTIES

Section 10.01. Chairperson, Vice-Chairperson and Secretary. The Board shall elect a Chairperson, a Vice Chairperson, and a Secretary of the Agency from among its members, who shall each serve a term of two years.

(a) The Chairperson shall preside at all meetings, sign documents as may be necessary for the proper functioning of the Agency, and perform such other duties as may be imposed by the Board of Directors.

(b) The Vice Chairperson shall take the place of the Chairperson in the absence of the Chairperson and perform such other duties as may be imposed by the Board of Directors.

(c) The Secretary shall cause minutes to be kept of all meetings and to be distributed to the Members and each of the members of the Board of Directors and perform such other duties as may be imposed by the Board of Directors.

Section 10.02. Treasurer-Controller. The Treasurer-Controller of the Agency shall be the Treasurer of the City of Carson, California, or such other person or entity designated by the Board.

(a) Subject to the applicable provisions of any Bond indenture or resolution providing for a trustee or other fiscal agent, the Treasurer-Controller shall have custody of all the money of the Agency, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the California Government Code.

(b) The Treasurer-Controller of the Agency is designated as the public officer or person who has charge of, handles, or has access to any property of the Agency, and as such, shall file a fidelity bond with the Secretary of the Agency in an amount to be fixed by the Board. The cost of such bond shall be a proper charge against the Agency. To the extent permitted by an existing fidelity bond, the Treasurer-Controller may satisfy this requirement by filing a fidelity bond obtained in connection with another public office, if the amount of that bond equals or exceeds the bond amount established by the Board of Directors.

ARTICLE 11 FISCAL YEAR

The fiscal year of the Agency shall be the period from July 1 of each year through and including the following June 30; provided, however, that if the date of this Agreement is other than any July 1, the first fiscal year shall be the period from the date of this Agreement through and including the following June 30.

ARTICLE 12 ADMINISTRATION

Section 12.01. Administrative Entity. In accord with Section 6506 of the California Government Code, the initial administrative entity of the Agency shall be the Housing & Finance Agency Corporation, a California nonprofit corporation.

Section 12.02. Duties of Administrative Entity; Delegation. The administrative entity shall be responsible for implementation of the Program of the Agency. In carrying out its responsibilities for administration of the Program, the administrative entity may contract with others, deemed by it to be qualified, to perform some or all of the administrative functions required for implementation of the program.

Section 12.03. Replacement of Administrative Entity. The Board may change the administrative entity at its discretion.

Section 12.04. Appointment of Underwriter. J. K. Chilton & Associates, Inc. is hereby appointed as underwriter of the Bonds issued by the Agency.

ARTICLE 13 BONDS

Section 13.01. Issuance of Bonds. The Agency shall have the power to issue Bonds or other forms of indebtedness authorized by law, at any time, for the purpose of raising funds necessary to carry out its powers and purpose under this Agreement.

ARTICLE 14 AGREEMENT NOT EXCLUSIVE

Section 14.01. Agreement Not Exclusive. This Agreement is not the exclusive means by which the Members may perform duties relating to housing imposed by law. Each of the Members reserves the right to carry out other housing financing programs, to issue other obligations, and to form other joint powers authorities to perform such duties.

Section 14.02. Affect On Other Agreements. This Agreement does not alter or modify the terms of other agreements which may exist between the Members except as expressly provided herein.

ARTICLE 15 CONTRIBUTIONS, ADVANCES, PRIOR EXPENSES

Section 15.01. Contributions and Advances. Contributions or advances of public funds and of personnel, services, equipment or property may be made to the Agency by any Member for any of the purposes of this Agreement. Funds collected from participating developers, lenders, or others may be used to defray the cost of any such contribution. An advance may be made subject to repayment and in such case shall be repaid if subsequently approved by the Agency. If the repayment is approved by the Agency, the manner of repayment shall be as agreed upon by the contributing Member and the Agency at the time of the advance. Notwithstanding any other contrary provision of this Agreement, no Member shall be obligated to make contributions to the Agency, except as may be required pursuant to Section 16.02 or Section 18.02 hereof.

Section 15.02. Expenses. Expenses incurred prior to a Bond sale, such as the costs of a Bond rating, printing an official statement and a preliminary official statement, a market study, a feasibility study, attorneys' fees, or other prior expense, shall be charged as costs of issuance of the bonds, payable from the proceeds of the sale of such Bonds.

ARTICLE 16 ACCOUNTING AND REPORTING

Section 16.01. Accounting; Inspection by Members. The Agency shall establish and maintain such funds and accounts as may be required by generally accepted accounting practice and by any provision of any resolution or indenture securing the Bonds of the Agency. The books and records of the Agency shall be open to inspection by the Members at a reasonable times.

Section 16.02. Annual Audit. The Agency shall be responsible for the strict accountability of all funds and the reporting of all receipts and disbursements. Pursuant to Section 6506 of the Act, the Agency shall cause an independent audit by a certified public accountant to be made of its books and accounts each year. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the California Government Code or its successor statute and shall conform to generally accepted auditing standards. The audit shall be provided to the Members within five months after the close of each fiscal year. Any cost of the audit, including contracts with certified public accountants, shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for such purpose. To the extent that the Agency does not have adequate funds to pay the cost of the audit, the Members shall bear the cost of any such deficiency equally.

Section 16.03. Inspection by Bondholders. All the books, records, accounts and files referred to in this Section shall be open to the inspection of holders of the Bonds to the extent and in the manner provided in any resolution or indenture providing for the issuance of Bonds.

ARTICLE 17 DEFAULT AND REMEDIES

Section 17.01. Default. If any Member shall default on any covenant contained in this Agreement, such default shall not excuse the defaulting Member from fulfilling its obligations under this Agreement and all Members shall continue to be liable for the performance of all conditions and covenants of the Agreement.

Section 17.02. Enforcement of Agreement. The Members declare that this Agreement is entered into for the benefit of the Pacific Housing & Finance Agency and grant to the Agency the right to enforce, by whatever lawful means the Agency deems appropriate, all of the obligations of each of the Members.

Section 17.03. Remedies Cumulative. Each and all of the remedies given to the Agency by this Agreement or by any law now or hereafter enacted are cumulative, and the exercise of one right or remedy shall not impair the right of the Agency to exercise any or all other remedies.

ARTICLE 18
DEBTS AND LIABILITIES, INSURANCE AND INDEMNIFICATION

Section 18.01. Debts and Liabilities. No Member shall be liable for any indebtedness of the Agency except that which is consented to by its City Council. All persons dealing with or having a claim against the Agency are hereby notified that no Member is liable for the debts of the Agency.

Section 18.02. Insurance. The Board shall maintain appropriate insurance to protect the Members from such liabilities and obligations. The cost of such insurance shall be paid by the Agency to the extent sufficient funds are available therefor. To the extent that the Agency does not have sufficient funds available to maintain such insurance, the cost thereof shall be borne equally by the Members.

Section 18.03. Indemnification. Each of the Members shall defend, indemnify and hold each of the other Members and the Agency harmless from any and all claims, losses, suits, injuries, deaths, damages, costs and expenses (each, a "Claim"), including reasonable attorney fees, arising from or as a result of (in whole or in part), any acts, errors or omissions of the indemnifying Member or its officers, agents, servants, employees or contractors during the course of carrying out this Agreement, to the extent of such indemnifying Member's negligence or willful misconduct. The Agency shall defend, indemnify and hold harmless each of the Members from any and all Claims, including reasonable attorney fees, arising from or as a result of (in whole or in part), any acts, errors or omissions of the Agency or its officers, agents, servants, employees or contractors, to the extent of the Agency's negligence or willful misconduct. The indemnities granted under this Section shall extend to the officers, agents, servants, employees and contractors of each indemnified party.

ARTICLE 19
MISCELLANEOUS PROVISIONS

Section 19.01. Severability. If any part, term, or provision of this Agreement is determined by a court of law to be illegal or in conflict with any law of the State of California or otherwise unenforceable, the validity of the remaining parts, terms or provisions shall not be affected.

Section 19.02. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties.

Section 19.03. Assignment and Delegation. Except to the extent expressly provided in this Agreement, a Member may not assign any right or delegate any obligation hereunder without the consent of the Board.

Section 19.04. Amendment and Modification of the Agreement. This Agreement may be amended by a supplemental agreement executed by all Members at any time (1) prior to the issuance of Bonds, or (2) after the issuance of Bonds but subject to the conditions and restrictions set forth in the resolution or resolutions authorizing the issuance of Bonds and in any indenture. New Members may be added as parties to this Agreement by the appropriate execution of a signature page, and no formal amendment or modification of this Agreement shall be required to accomplish such purpose.

Section 19.05. Approvals. Whenever an approval is required by this Agreement, unless the context specifies otherwise, it shall be given by resolution duly and regularly adopted by the City whose consent is required. Whenever an approval is required by the Agency, it shall be by resolution duly and regularly adopted by the Board unless such approval can be given by the administrative entity.

Section 19.06. Governing Law. This Agreement shall be governed by, and construed under and in accordance with, the laws of the State of California.

Section 19.07. Counterparts. This Agreement may be executed in one or more counterparts, and such counterparts, taken together, shall constitute but one and the same Agreement.

IN WITNESS WHEREOF, the Members identified in Section 3.02 have caused this Agreement to be executed as of the date set forth below by the signatures of their respective authorized officers.

Dated:

CITY OF SOLEDAD

Bbe
City Clerk

Ray J. Gunn
Mayor

Approved as to form:

[Signature]
City Attorney

EXHIBIT A

to the

Joint Exercise of Powers Agreement
Creating the Pacific Housing & Finance Agency

Voting Members

Avenal
Citrus Heights
Coachella
Corcoran
Delano
Galt
Greenfield
Indio
Ione
Lodi
Madera
Marina
Oxnard
Palmdale
Palm Springs
Pittsburg
Rialto
Seaside
Selma
Soledad
Stockton
Susanville
Vallejo
Visalia
Wasco
West Sacramento

EXHIBIT B

to the

Joint Exercise of Powers Agreement
Creating the Pacific Housing & Finance Agency

Associate Members

Fresno
Calipatria
Merced