

RESOLUTION NO. 2146

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
APPROVING AN AGREEMENT FOR SALE OF PROPERTY
BETWEEN THE CITY OF SOLEDAD AND
LEWIS AND DORIS JONES

WHEREAS, cities are authorized pursuant to Government Code Section 37350 to purchase real property for the common benefit; and

WHEREAS, the City Council of the City of Soledad ("City") desires to enter into an Agreement for the Sale of Property (the "Agreement") with Lewis Jones and Doris Jones (the "Sellers"), which Agreement provides for the City to purchase property located at 278 Main Street in the City (the "Property") upon the terms and conditions set forth in the Agreement; and

WHEREAS, the Planning Commission of the City of Soledad, on December 4, 1991 has determined that the purchase of the Property pursuant to the Agreement is consistent with the City's General Plan; and

WHEREAS, the City Council has duly considered all of the terms and conditions of the Agreement and believes that the Agreement is in the best interests of the residents of the City, and in accordance with the public purposes and provisions of applicable state and local requirements of law, and

WHEREAS, the City Council has reviewed an independent appraisal of the fair market value of the Property and has determined that the purchase price for the Property pursuant to the Agreement is equal to the appraised fair market value of the Property.

NOW, THEREFORE, the City Council of the City of Soledad does hereby resolve as follows:

Section 1. That the acquisition of the site has no significant effect on the environment and orders a Negative Declaration be prepared

Section 2. The Agreement is approved, and the Mayor is authorized and directed to execute the Agreement.

Section 3 The City Manager is authorized and directed to take any additional actions and execute any additional documents as are necessary or convenient to fulfill and carry out the terms of the Agreement.

PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting held on the 9th day of March, 1992, by the following vote:

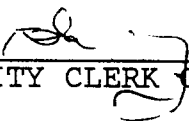
AYES, and in favor thereof, Councilmembers: Fabian Barrera, Ben Jimenez, Jr., Fred Ledesma, Mayor Pro Tem John Holguin, Mayor Joe Ledesma

NOES, Councilmembers. None

ABSENT, Councilmembers: None

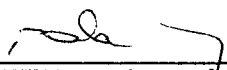

MAYOR OF THE CITY OF SOLEDAD

ATTEST:


CITY CLERK OF THE CITY OF SOLEDAD

I hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Soledad at a regular meeting thereof held on the 9th day of March, 1992, by the following vote:

AYES:	Councilmembers: Fabian Barrera, Ben Jimenez, Jr., Fred Ledesma, Mayor Pro Tem John Holguin, Mayor Joe Ledesma
NOES:	None
ABSENT	None
ABSTAIN	None



CITY CLERK OF THE CITY OF SOLEDAD

AGREEMENT FOR SALE OF PROPERTY
(LEWIS JONES AND DORIS JONES)

This Agreement (the "Agreement"), effective 3/10/, 1992, is between the City of Soledad, a municipal corporation ("Buyer" or "City") and Lewis Jones and Doris Jones, husband and wife (collectively, "Seller") and is made on the basis of the following facts, intentions and understandings

A Seller is the present owner of that certain real property and building located thereon (the "Property") generally located at 278 Main Street, Soledad, California and more particularly described in Exhibit "A" hereto, which is attached hereto and incorporated herein by reference

B All interest of Seller in the Property is to be transferred to the Buyer in accordance with the terms of this Agreement

C Buyer desires to acquire Seller's interest in the Property, which is the entire fee interest in the property ("Seller's Interest") for its public purposes, and Seller has agreed to sell, assign and transfer Seller's Interest in the Property on the terms and conditions set forth in this Agreement Seller expressly acknowledges that the Buyer may sell or lease the Property to another private party or may devote the Property to any use of its own choosing

For good and valuable consideration, receipt of which is acknowledged, the parties agree as follows

1 Purchase and Sale of Seller's Interest Seller shall sell to Buyer, and Buyer shall purchase from Seller, Seller's Interest for a cash purchase price of Seventy Thousand Dollars (\$70,000) less any amounts paid by the City to Melba Cummins, an unmarried woman ("Cummins") pursuant to or in consideration of the Release and Waiver attached to this Agreement as Exhibit "B" (the "Purchase Price") The Purchase Price represents the agreed upon value of Seller's Interest and any and all other claims Seller may have against Buyer

2 Closing

2.1 Closing This transaction shall close ("Closing Date") within ten days after Buyer notifies Seller in writing that it is prepared to make the payment as required under paragraph 2.4, and in any event before April 1, 1992 (the "Outside Date") The Closing shall occur at a location within Monterey County at a time and place reasonably agreed on by the parties The "Closing" shall mean the time and day the Grant Deed (referred to below) is filed for record with the Monterey

Exhibit A

County Recorder The "Closing Date" shall mean the day on which the Closing occurs

2 2 Conditions of Closing The Closing is conditioned upon

(a) Conveyance to Buyer of good and marketable title free of rights of possession of tenants, all as subject to the reasonable approval of Buyer and Buyer's counsel,

(b) Delivery of an CLTA standard coverage title insurance policy in the amount of the full Purchase Price, subject only to such liens, encumbrances, clouds or conditions as may be approved in writing by the City Manager acting on behalf of the Buyer in accordance with Section 6 4, below, and

(c) Satisfaction of all of the Seller's obligations enumerated in Section 2 3 hereof

2 3 Seller's Obligations No later than 12 00 o'clock noon on the last business day before the anticipated Closing Date, Seller shall deliver to Escrow Holder at the Closing the following

(a) a Grant Deed signed by Seller in the form of the attached Exhibit A,

(b) a proration of taxes through escrow due pursuant to Section 7 hereof,

(c) all amounts payable by Seller pursuant to Section 6 2 of this Agreement (or a written instruction to the Escrow Holder to charge such amounts against the funds payable to Seller as the Purchase Price),

(d) an Acknowledgment Release and Waiver signed by Melba Cummins ("Cummins"), a tenant residing at the Property, in the form attached as Exhibit "B", and

(e) a non-foreign transferor declaration (the "Nonforeign Transfer Declaration) duly executed and in the form of Exhibit D attached hereto and made a part hereof

2 4 Buyer's Obligations No later than 12 00 o'clock noon on the last business day before the anticipated Closing Date, Buyer shall deliver to escrow the following

(a) The Purchase Price, consisting of funds in the amount of Seventy Thousand Dollars (\$70,000) less any amounts payable pursuant to or in consideration the Release and

Waiver (Exhibit B), payment of which may be tendered in the form of a warrant,

(b) One-half (1/2) of escrow charges pursuant to Section 6 2 of this Agreement, and

(c) a Deed Authorization signed by Buyer in the form attached to the Grant Deed (Attachment No 2 to Exhibit A)

3 Representations and Warranties of Seller Seller represents and warrants to Buyer as follows

(a) Seller, at the time of the execution of this Agreement, is seized of the Property in fee simple, and is the lawful owner of and has good indefeasible title to the Property

(b) Seller has full right, power and lawful authority to grant, sell and convey the Property as provided herein

(c) There are no tenants on the Property other than Cummins and no rights to possession of the Property except for the rights of Seller

(d) Seller has not released or added to the Property and Seller has no knowledge of the existence at the Property of any "Hazardous Materials" or "Hazardous Materials Contamination", as those terms are defined below For the purposes of this Agreement, the following terms shall have the meanings herein specified

(1) The term "Hazardous Materials" shall mean (aa) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U S C Section 9601 et seq), as amended from time to time, and regulations promulgated thereunder, (bb) any "hazardous substance" as defined by the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Sections 25300 et seq), as amended from time to time, and regulations promulgated thereunder, (cc) asbestos, (dd) polychlorinated biphenyls, (ee) petroleum, oil, gasoline (refined and unrefined) and their respective by-products and constituents, and (ff) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any "Governmental Requirements" (as defined in this Section 3) either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as "hazardous" or harmful to the environment

(2) The term "Hazardous Materials Contamination" shall mean the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil,

groundwater, air or other elements on, in or of the Site by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the date of this Agreement) emanating from the Property

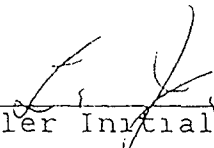
(3) The term "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Property is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the City, the Seller or the Property

The representations and warranties set forth in this paragraph 3 shall survive close of escrow

4 Release and Discharge The Seller on behalf of itself and its successors, assignees or representatives, fully releases, discharges and agrees to hold harmless the Buyer from any and all manner of rights, claims or actions of the Seller or its successors, whether known or unknown, whether now existing or hereinafter arising, which arise from or relate in any matter to the subject matter of the Agreement including, but not limited to, insofar as such claims relate to Seller (and its successors) but not to any other entity, goodwill, relocation assistance, severance damages, attorneys' fees or any other compensation whatsoever

Seller has been advised by legal counsel and has read and understood the provisions of Section 1542 of the California Civil Code, which provides "a general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor "

Nevertheless, the Seller assumes all risk from claims, known or unknown, previously or later arising from or relating to the matters released in this Agreement and does hereby waive all of its rights under Section 1542 of the California Civil Code



 Seller Initials Here

5 Termination

If the Closing fails to occur by the Outside Date, either party which is not then in default under this Agreement may, by written notice to the other party, terminate this Agreement. Termination of this Agreement shall be without prejudice as to whatever legal rights either party may have against the other arising from this Agreement.

6 Escrow Within five (5) days after the execution of this Agreement by City, the parties shall open escrow with Chicago Title Insurance Company, 339 Pajaro Street, Salinas, California 93901, or another reputable, mutually acceptable escrow holder (the "Escrow Holder")

6.1 Escrow Instructions If in the opinion of the Buyer it is necessary or convenient in order to accomplish the Closing of this transaction, Buyer may require that the parties sign escrow instructions as may be required by the the title insurer issuing a policy on behalf of the City (which shall be Chicago Title Insurance Company or such other title insurance as the Buyer may select), provided that if there is any inconsistency between this Agreement and the escrow instructions, then the provisions of this Agreement shall control.

The Closing shall take place when the conditions of closing as set forth in Section 2.2 have been satisfied, whereupon the Escrow Holder shall be instructed by the Buyer to release the Purchase Price to the Seller.

The City Manager, acting on behalf of the City, is authorized to execute the deed authorization, escrow instructions, and such other documentation as may be necessary or convenient to effectuate the provisions of this Agreement.

6.2 Costs Any transfer fees, transfer taxes, premiums for title insurance (which shall be an CLTA standard coverage policy or such other policy of title insurance as the City Manager may direct) and one-half (1/2) of the escrow fees shall be paid by the Seller. The Buyer shall pay one-half (1/2) of the escrow fees.

6.3 Title Contingency Within fifteen (15) days after the opening of escrow, Escrow Holder shall deliver to Buyer, for its review and approval, a preliminary title report from Chicago Title Insurance Company, or another reputable title company chosen by Buyer disclosing the condition of title of the Property ("Title Report"). Within fifteen (15) days after Buyer's receipt of the Title Report, Buyer shall notify Seller and Escrow Holder if it approves of the Title Report or if it disapproves of any exception to title disclosed by such

Title Report ("Disapproved Exceptions") Failure of Buyer to so notify Seller and Escrow Holder shall be deemed disapproval of all exceptions to title Within ten (10) days after Seller's receipt of Buyer's notice, or, in the event Buyer fails to so notify Seller and Escrow Holder, within ten (10) days after the expiration of Buyer's fifteen (15) day approval period, Seller shall advise Buyer and Escrow Holder in writing whether (i) Seller will remove the Disapproved Exceptions at its sole cost and expense, or (ii) Seller will not remove the Disapproved Exceptions, in which event the escrow shall terminate and Seller shall pay all escrow charges and title company charges incurred to date, and the parties shall have no liability to each other hereunder

No later than 12 00 o'clock noon on the last business day before the anticipated Closing Date, Seller shall have caused a new Title Report to have been issued, showing title to the Property free and clear of all Disapproved Exceptions, and a commitment by the title company providing same to issue an CLTA standard coverage title insurance policy with respect to same If Seller fails to do so, Buyer may unilaterally cancel the escrow and Seller shall pay all escrow charges and title company charges incurred to date

7 Prorations

All real and personal property taxes for the current fiscal year based on the most recent information available shall be prorated as of 12 01 a m on the Closing Date based on a 30-day month

8 General Provisions

8 1 No Commissions Seller and Buyer each represent and warrant to the other that no broker or finder is entitled to any commission or finder's fee in connection with this transaction, and each agrees to defend and hold harmless the other from any claim to any such commission or fee resulting from any action on its part

8 2 Assignment

(a) This Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and assigns

(b) Buyer shall have the right to assign this Agreement or any interest or right under this Agreement or under the Escrow without obtaining the prior written consent of Seller The Seller may not assign any of its rights pursuant to this Agreement without the written consent of the Buyer In

no event shall any assignment relieve the assigning party of any of its obligations under this Agreement

8 3 Attorneys' Fees In any action between the parties to enforce any of the terms or provisions of this Agreement, the prevailing party in the action shall be entitled, in addition to damages, injunctive relief or other relief, to its reasonable costs and expenses including, without limitation, costs and reasonable attorneys' fees fixed by the court, both at trial and on appeal

8 4 Specific Performance In addition to all remedies at law, the parties shall be entitled to specific performance of the terms of this Agreement

8 5 Approvals And Notices Any approval, disapproval, demand, document or other notice ("Notice") which either party may desire to give to the other party under this Agreement must be in writing and may be given by any commercially acceptable means to the party to whom the Notice is directed at the address of the party as set forth in this Agreement, or at any other address as that party may later designate by Notice Any Notice given under this paragraph, whether personally or by mail, shall be deemed received only upon actual receipt by the intended party

8 6 Jurisdiction And Venue This Agreement shall be construed under the laws of the State of California in effect at the time of the signing of this Agreement The parties consent to the jurisdiction of the California courts with venue in Monterey County

8 7 Titles And Captions Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms Reference to paragraph numbers are to paragraphs in this Agreement, unless expressly stated otherwise

8 8 Interpretation As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates The word "including" shall be construed as if followed by the words "without limitation" This Agreement shall be interpreted neutrally as though prepared jointly by both parties

8 9 No Waiver A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement

8 10 Modifications Any alteration, change or modification on or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party

8 11 Severability If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law

8 12 Merger Of Prior Agreements And Understandings This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect

8 13 Not An Offer Any delivery of unsigned copies of this Agreement is solely for the purpose of review by the party to whom delivered, and neither the delivery nor any prior communications between the parties, whether oral or written, shall in any way be construed as an offer by Seller, nor in any way imply that Seller is under any obligation to enter the transaction which is the subject of this Agreement. The signing of this Agreement by Buyer constitutes an offer which shall not be deemed accepted by Seller unless and until Seller has signed this Agreement and delivered a duplicate original to Buyer

8 14 Time Of Essence Time is expressly made of the essence with respect to the performance by Buyer and Seller of each and every obligation and condition of this Agreement including, without limitation, the Closing Date

8 15 Possession Of Property Buyer shall first be entitled to possession of the Property on and after the Closing Date. Seller warrants and represents to Buyer that Buyer shall have, on and as of the Closing Date, complete and unfettered possession of the Property

8 16 Counterparts This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement

8 17 Exhibits Incorporated by Reference All exhibits attached to this Agreement are incorporated in this Agreement by this reference

8 18 Computation Of Time The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day Escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

8 19 Legal Advice Each party represents and warrants to the other the following: They have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have, they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement.

8 20 Cooperation Each party agrees to cooperate with the other in the Closing of this transaction and, in that regard, to sign any and all documents which may be reasonably necessary to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements.

BUYER

CITY OF SOLEDAD, a municipal corporation

DATED 3/11, 1992

By Joe O. Ledesma
Joe O. Ledesma, Mayor

ATTEST

[Signature]
City Clerk

[Signatures continued on next page]

SELLER

DATED 3/20, 1992

Lewis Jones
Lewis Jones

DATED 3/20, 1992

Doris Jones
Doris Jones