

JOINT EXERCISE OF POWERS AGREEMENT  
CREATING THE NORTH CITY WEST SCHOOL  
FACILITIES FINANCING AUTHORITY

THIS AGREEMENT entered into this,        day of April 1983  
by and between the following public educational  
corporations:

- A. San Dieguito Union High School District  
(herein referred to as "San Dieguito")
- B. Solana Beach School District  
(herein referred to as "Solana Beach")
- C. Del Mar Union School District  
(herein referred to as "Del Mar")

W I T N E S S E T H

WHEREAS, the City of San Diego (herein referred to as  
"City") has, as a part of its approval of the "North City  
West Community Plan" and the "North City West Planned  
District Ordinance", approved the "North City West School  
Facilities Master Plan" (herein referred to as "Master  
Plan") by Resolution No. R-255381, dated November 17, 1981;  
and

WHEREAS, under the provisions of said Master Plan, City

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may, under certain conditions, require that developers deposit funds to provide adequate school facilities prior to or concurrent with the issuance of residential building permits; and

WHEREAS, it is the constitutional and statutory responsibility of the parties to this agreement, within whose geographical boundaries lies North City West, to provide school facilities for all children residing within their respective school districts; and

WHEREAS, under the provisions of said Master Plan, City may determine the amount of and collect the developer deposits and, to the extent so determined and collected, shall forthwith turn over such deposits to a Joint Powers Agency composed of the parties to this Agreement; and

WHEREAS, the parties hereto, individually and collectively, have the power to receive and expend funds for the purpose of acquiring land and constructing and equipping public school facilities; and

WHEREAS, the parties to this Agreement have determined that it is to their mutual benefit and best interest to place the responsibility for receiving and expending the developer deposits for public school facilities in the Joint Powers Agency hereby created;

NOW, THEREFORE, it is agreed as follows:

Section 1. PURPOSE.

This Agreement is made pursuant to provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500, herein called "Act") relating to the joint exercise of

powers common to all parties to this Agreement. All parties to this Agreement each possess the powers referred to in the recitals hereof. The purpose of this Agreement is to exercise such powers jointly. Such purpose will be accomplished, and said common powers exercised, in the manner herein set forth.

Section 2. AUTHORITY.

A. Creation of Authority.

Pursuant to Section 6506 of the Act, there is hereby created a public entity separate and apart from the parties hereto, to be known as the "North City West School Facilities Financing Authority" (herein referred to as the "Authority"). Its debts, liabilities and obligations shall not constitute debts, liabilities or obligations of any party to the Agreement.

B. Governing Body.

The Authority shall be administered by a governing body, each member serving in his individual capacity as a member of the governing body. The governing body shall be known as the Board of Directors of the Authority. Each party to this Agreement shall appoint a member of the Board of Directors and an alternate who shall serve at the pleasure of the appointing authority. The alternate shall act for the member Director when he or she cannot attend meetings of the Board. The City and the Superintendent of Schools of the County of San Diego (herein referred to as "County Superintendent") may each appoint an Ex-Officio member of the Governing Board and an alternate to serve without vote.

C. Meetings of the Governing Board.

(1) Regular Meetings.

The Board of Directors shall provide for its regular, adjourned regular and special meetings; provided, however, that it shall hold ~~at~~ at least one regular meeting in each three (3) month (quarterly) period of each year. The dates upon which, and the time and place at which, any regular meeting(s) shall be held shall be fixed by resolution and a copy of such resolution (or any changes thereto) shall be filed with each party hereto.

(2) Ralph M. Brown Act.

All meetings of the Board of Directors, including without limitation, regular, adjourned regular, and special meetings, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California).

(3) Minutes.

The Secretary of the Board of Directors shall cause to be kept minutes of all meetings of the Board, and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board of Directors, to each party, the City and the County Superintendent.

(4) Quorum.

A majority of the Board of Directors shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn the meetings from time to time.

(5) Votes Required

Any action of the Governing Board, other than

adjournment, shall require two affirmative votes.

D. Officers.

The Board shall elect a Chairman, Vice Chairman and a Secretary. The Chairman and Vice Chairman must be Directors appointed by the parties hereto. The Secretary may, but need not be, a Director.

The Chairman, Vice Chairman, and Secretary shall hold office for a period of one year commencing July 1 of each and every fiscal year; provided, however, that the first Chairman, Vice Chairman and Secretary elected shall hold office from the date elected until June 30th of the ensuing fiscal year.

Any officer, employee or agent of the Board may also be an officer, employee or agent of any of the parties hereto. The election or appointment by the Board of such a person shall be evidence that the two positions are compatible.

The Board of Directors shall designate the Treasurer of the County of San Diego as the Treasurer of the Authority.

The Auditor of the Authority shall be as specified in Section 6505.5 of the Government Code. The Board of Directors may further provide for an attorney for the Authority who may, but need not be, an attorney for one of the parties to this agreement.

All of the privileges and immunities from liability, exemption from laws, ordinances, and rules, all pension, relief, disability, worker's compensation, and other benefits which apply to the activity of officers, agents or employees of any of the parties when performing their respective functions shall apply to them to the same degree

and extent while engaged in the performance of any of the functions and other duties under this Agreement. None of the officers, agents, or employees appointed by the Board shall be deemed, by reason of their employment by the Board, to be employed by any of the parties or, by reason of their employment by the Board, to be subject to any of the requirements of such parties.

SECTION 3. Powers

A. The Authority shall have the powers common to the parties of this Agreement to hold, receive and disburse funds for the purpose of constructing and equipping public school facilities.

B. The Authority is further authorized to do all acts necessary for the exercise of said common powers for said purposes including, but not limited to, any and all of the following: to make and enter into contracts; to employ agents and employees; to acquire and dispose of real and personal property; to incur debts, liabilities, or obligations required by the exercise of these powers, which do not constitute a debt, liability or obligation of any of the parties to the Agreement; and to sue or be sued in its own name

C. The Authority is further given specific powers to enter into agreements with the City and others for the purpose of implementing the "North City West School Facilities Master Plan"

D. The Authority is further empowered to exercise all the functions given to it pursuant to the Master Plan as amended from time to time, including, but not limited to,

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consultation with the City in setting the initial amount of developer deposits, participating in the annual review of the developer fund, advising on any agreements regarding credits or reimbursements for facilities constructed or to be constructed, proposing amendments to the Master Plan, and disbursing funds to the parties hereto or to non profit corporations for constructing and equipping public school facilities. Provided, however, that no funds shall be disbursed by the Authority without compliance with the provisions of the Master Plan (in particular the provisions of Appendices "E" and "F" thereof) as amended from time to time.

E. The responsibility for the design, construction and equipping of the public school facilities built with funds provided by the Authority in accordance with the Master Plan shall rest with the individual school districts requiring such facilities, not the Authority and the title to such facilities shall rest with such school district. However, this shall not preclude the parties from entering into joint use and/or ownership of facilities. In addition, the Authority by mutual agreement of all of the parties may retain title to relocatable or portable facilities.

F. Powers to be exercised by the Authority shall be exercised in the manner provided for in the Act, and, except as set forth therein, subject only to such restrictions on the manner of exercising such powers as are imposed upon any of the parties in the exercise of similar powers.

#### SECTION 4. Fiscal Year

For the purposes of this Agreement, the term "Fiscal

Year" shall mean the period from July 1 to and including the following June 30.

SECTION 5. Term and Termination

A. Term

The Authority shall continue in existence until this Agreement is rescinded or terminated as herein provided.

B. Rescission or Termination.

This Agreement shall be terminated at such time as the parties to this Agreement determine that adequate public school facilities have been provided or that satisfactory arrangements have been made to insure that adequate public school facilities will be available for children residing or proposed to be residing in North City West. The Agreement further may be terminated by written consent of all parties.

SECTION 6. Amendments

Any amendment to this Agreement shall require the consent of all the parties hereto and the City.

SECTION 7. Disposition of Assets.

Upon rescission or termination of this Agreement, the property of the Authority shall be distributed by agreement between the Authority and the City in accordance with the Master Plan.

SECTION 8. Tort Liability

Section 895.2 of the Government Code imposes certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined in Section 895 of said Code. Therefore, the parties hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6 of the Government Code, each

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assumes the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve this purpose, each party indemnifies and holds harmless the other parties for any loss, cost or expense that may be imposed upon such other parties solely by virtue of Section 895.2 of the Government Code. SECTION 9. Miscellaneous.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Whenever in this Agreement any consent or approval is required the same shall not be unreasonably withheld.

This Agreement is made in the State of California under the Constitution and laws of such State and is to be so construed.

To preserve a reasonable degree of flexibility, many parts of this Agreement are stated in general terms. It is understood that there will be operating memoranda executed and amended from time to time which will further define the rights and obligations of the parties. Such operating memoranda and amendments thereto shall be prepared by the Authority and approved by the Board of Directors and the City.

#### SECTION 10. Severability.

Should any part, term, or provision of this Agreement be by the courts decided to be illegal or in conflict with

any laws of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

SECTION 11. Successor.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties.

SECTION 12. Counterparts.

This Agreement may be executed in one or more counterparts, and shall be as fully effective as though executed in one document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seal, to be hereto affixed, as of the day and year first above written.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

By *William A. Bernier*

Ratified by the Governing Board at the meeting of April 7, 1983.

SOLANA BEACH SCHOOL DISTRICT

By *Raymond O. Edman*

Ratified by the Governing Board at the meeting of April 12, 1983.

DEL MAR UNION SCHOOL DISTRICT

By *Patricia Ellen Horkan*

Ratified by the Governing Board at the meeting of April 13,  
1983.

APPROVED:

THE CITY OF SAN DIEGO

By

The undersigned hereby agrees to appoint an Ex-Officio  
member of the Governing Board and an alternate.

SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS

By

*David C. Harker*