

RESOLUTION NO. 2266

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
 AUTHORIZING THE EXECUTION OF AN AGREEMENT AND
 FEE SCHEDULE WITH DOLE FRESH VEGETABLES
 TO PROVIDE EXTRATERRITORIAL UTILITY
 SERVICE

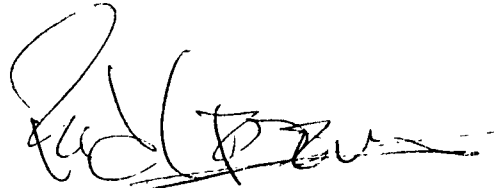
BE IT RESOLVED by the City Council of the City of Soledad that the Mayor and the City Clerk be, and they are hereby authorized and directed for and on behalf of the City of Soledad, to execute an agreement and fee schedule with Dole Fresh Vegetables in the form of the document hereunto attached, marked, "Exhibit A", and by reference made a part hereof.

PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 26th day of July, 1993, by the following vote:

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

NOES, Councilmembers: None

ABSENT, Councilmembers: None



MAYOR OF THE CITY OF SOLEDAD

ATTEST:



CITY CLERK OF THE CITY OF SOLEDAD

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

AGREEMENT TO PROVIDE EXTRATERRITORIAL UTILITY SERVICE

THIS AGREEMENT is made and entered into this 26th day of July, 1993 and executed in duplicate originals, by and between the CITY OF SOLEDAD, a municipal corporation of the State of California (hereinafter referred to as "City") and DOLE FRESH VEGETABLES, INC., a California Corporation (hereinafter referred to as "Dole").

WITNESSETH:

WHEREAS, Dole intends to develop, construct and operate a Salad Processing Plant ("the Plant") within the County of Monterey near Highway 101 and Camphora-Gloria Road in the vicinity of the City of Soledad, on property generally known as Assessor's Parcel Number 257-081-009 ("the Subject Property"); and

WHEREAS, the Plant will generate domestic wastewater; and

WHEREAS, Dole desires to contract with the City of Soledad to treat all domestic wastewater from the Plant in the City's Wastewater Treatment Plant ("WWTP"); and

WHEREAS, City has the ability to accept all of Dole's domestic wastewater by means of a transmission line to be constructed for the development of the Soledad Prison II, and to treat Dole's domestic wastewater at the City's WWTP;

NOW THEREFORE, in consideration of mutual covenants and agreements hereinafter contained, the parties agree as follows:

1. The City agrees to accept and treat for a fee all domestic wastewater from the Plant.
2. Average daily wastewater flow from the Plant, measured in gallons per day (gpd) over a monthly period, shall not exceed 20,000 gpd on an annualized basis.
3. Average wastewater Biological Oxygen Demand (BOD) from Dole, measured over a monthly period, shall not exceed 250 milligrams per liter (mg/l).
4. If domestic wastewater flows from the Plant exceed the volume specified in Paragraph 2, or the BOD specified in Paragraph 3, City shall give written notice to Dole, and Dole shall have a reasonable time as mutually agreed upon by the parties to this agreement, to bring the flow or the BOD, as the case may be, into

compliance with applicable standard.

5. Dole agrees to pay the City for treatment of the wastewater and connection fees to the WWTP in accordance with the fee schedule attached hereto as Exhibit "A".

6. Dole agrees to perform the following described work "the Dole Work" at its own cost and expense:

Install a sanitary sewage pump station, including pumps, controls, valves and appurtenances with a force main to convey the sanitary sewage from the Subject Property to the City interceptor line along US Highway 101 at the intersection of Camphora-Gloria Road. Gravity sewerage will be included to connect the Plant to the pump station.

7. City shall be permitted to review and comment upon engineering and construction documents for the Dole Work, provided that such review and comment shall be accomplished so as not to delay construction.

8. Dole shall pay City's cost to inspect construction and review shop drawings during the construction of the Dole Work in accordance with Exhibit "A" attached hereto. City shall contract with The Dennis Group, Inc., for inspection and construction management services in connection with construction of the main transmission line. The Dennis Group, Inc. shall bill City for its services, and Dole shall promptly reimburse City for said services.

9. City shall not be responsible for the performance or non-performance of any of the work of construction of the Dole Work, and Dole shall hold City free and harmless from any claim or liability resulting from or arising out of the same.

10. Upon completion of construction of the Dole Work, Dole shall transfer to the City said improvements and the City shall accept any and all interest therein; provided, however, that if the improvements differ materially from the one hundred percent (100%) final construction documents (or subsequent alterations thereto) approved by the City, and such variance renders them materially inoperable, grossly inefficient, or dangerous, the City may refuse to accept them. After transfer of the improvements to the City, the City shall own and have the responsibility for operation, maintenance, replacement or repair of all such improvements. Dole shall assign to the City any warranties for all of the above improvements, together with any off-site easements, licenses or franchises appurtenant thereto.

11. The services furnished pursuant to this agreement shall only be provided to the Subject Property and no other.

12. Dole and City acknowledge that this agreement provides

for the delivery to the Subject Property of services ordinarily rendered only to lands within the City of Soledad; that it may in the long run be advantageous to both City and Dole that the Subject Property be annexed to the City of Soledad; and that either Dole or City may initiate proceedings at any time to annex the Subject Property to the City of Soledad. If Dole initiates annexation proceedings, City agrees to cooperate with Dole and to give such application favorable consideration and support to the extent that City finds annexation to be feasible and in the best interests of the City of Soledad. If City initiates annexation proceedings, Dole agrees to consider the proposal in good faith and not to oppose or object to annexation so long as Dole finds such annexation to be feasible and in the best interests of Dole from a financial and use standpoint. Both Dole and city agree to consider and evaluate an annexation proceeding initiated by the other in good faith and in a spirit of fair dealing.

13. It is understood that at any time after the first five years following the initiation of domestic sewer service to the Plant by City unless and until annexation of the Subject Property, City may charge an outside-the-city-limit rate for service as established by ordinance or regulation of the City of Soledad.

14. Should a court of competent jurisdiction restrict or limit directly or indirectly City's ability to provide domestic wastewater service outside its city limits, the parties agree to modify the terms of this agreement to the extent necessary to permit continued domestic wastewater service to the Plant consistent with the court's orders. If this agreement cannot be so modified by reason of the court order, then City shall have the right to terminate sewer service to the Plant, provided, however, that to the extent allowed by the court, City shall give Dole sufficient advance notice to allow Dole to develop and install a feasible alternate domestic wastewater treatment and disposal system.

15. The Subject Property is situated in the County of Monterey, State of California and is more particularly described in Exhibit "B" attached hereto, and made a part of this agreement.

16. Dole expressly agrees to defend, hold harmless, and indemnify City from and against any and all claims, damages, causes of action, suits or damages (including costs and expenses incurred in connection therewith) on account of death or injury to persons and/or loss of or damage to property of third persons arising from any and all construction or design activities concerning improvements as described in Section 6.

In the event of any claims made or suits filed, Dole shall provide City with notice thereof and City shall have the right to defend or to settle the same to the extent of its interest hereunder.

Dole's obligations under this paragraph shall apply only to claims, damages, causes of action, suits or damages arising prior to the date on which City accepts ownership of the Dole Work pursuant to Paragraph 10 above.

17. Dole shall, at its own expense, obtain all necessary permits and licenses for the construction of the Dole Work.

18. Both parties agree, on the request of the other, to execute, acknowledge and record this agreement, in its entirety.

IN WITNESS WHEREOF the parties have executed this agreement to be effective on the date first set forth above.

CITY OF SOLEDAD, a Municipal Corporation

By: [Signature]
Its Mayor

DOLE FRESH VEGETABLES, INC., A California corporation

By: [Signature]
Title: Vice President

EXHIBIT "A"

DOLE WASTEWATER FEE SCHEDULE

MONTHLY SERVICE CHARGE \$2,000 per month

The above monthly service charge is based upon gravity flow from the Plant to City's transmission main along Highway 101. If Dole elects to utilize a lift pump in connection with the system, the monthly service charge may be adjusted to reasonably reflect City's additional costs of operation.

The above charge shall be fixed for five (5) years, but is subject to adjustment to reflect actual energy cost changes, salary and benefit changes, or changes in federal, state or local laws, regulations or rules governing treatment, storage or disposal of wastewater.

CONNECTION FEES

CONNECTION CHARGE	\$8,760
IMPACT FEE (WWTP)	26,300
IMPACT FEE (MAIN)	<u>12,800</u>
	\$47,860

The connection fees shall be paid \$12,860 in cash upon commencement of service; and the balance of \$35,000 in three equal annual installments due on the anniversaries of the commencement of service, without interest.

DIRECT CHARGES

BID COSTS FOR SOLEDAD PRISON II TRANSMISSION LINE	(Estimated \$20,000)
INSPECTION COSTS PER PARAGRAPH 8 of AGREEMENT	(Actual)

LEGAL DESCRIPTION:

ALL THAT REAL PROPERTY IN AND BEING A PORTION OF THE RANCHO SAN VINCENTE, IN THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, BEING A PART OF THAT CERTAIN 677.801 ACRE TRACT OF LAND CONVEYED BY SOLEDAD RANCH COMPANY, A CORPORATION, TO STEPHEN H. RIANDA, ET UX, BY DEED DATED APRIL 27, 1946, RECORDED APRIL 30, 1946 IN VOLUME 902 AT PAGE 185 THEREIN, MONTEREY COUNTY OFFICIAL RECORDS, CALIFORNIA, DESCRIBED AS FOLLOWS, TO-WIT:

PARCEL I:

COMMENCING AT A 4 X 4 SURVEY POST MARKED "RS" STANDING ON THE SOUTHEAST SIDE OF THE COUNTY ROAD LEADING FROM SOLEDAD TO GLORIA, AT THE NORTHWEST CORNER OF THE SAID RIANDA 677.801 ACRE TRACT, AND RUNNING THENCE ALONG THE SOUTHEAST SIDE OF THE SAID COUNTY ROAD, AND THE NORTHWEST SIDE OF THE RIANDA 677.801 ACRE TRACT,

- (1) SOUTH $17^{\circ} 02' 45''$ WEST, 5019.1 FEET TO AN IRON PIPE; THENCE LEAVE THE NORTHWEST SIDE OF THE RIANDA 677.801 ACRE TRACT AND THE SOUTHEAST SIDE OF THE COUNTY ROAD FROM SOLEDAD TO GLORIA, AND RUNNING ALONG THE CENTER LINE OF AN EASEMENT FOR ROAD PURPOSES AND UTILITY PURPOSES, 20 FEET WIDE, HEREINAFTER DESCRIBED AND PARALLEL TO AND DISTANT 15 FEET NORTHEASTERLY FROM THE CENTER OF A CONCRETE IRRIGATION PIPE LINE, AND ACROSS THE SAID 677.801 ACRE TRACT,
- (2) SOUTH $72^{\circ} 56' 30''$ EAST, AT 1549.57 FEET INTERSECT THE CENTER LINE OF A REINFORCED CONCRETE FORCE LINE, 16 INCHES IN DIAMETER, AT A POINT NOW DESIGNATED AS POINT "A", IN THE CENTER LINE AND NORTHERLY TERMINUS OF AN EASEMENT (20 FEET WIDE), FOR SAID FORCE LINE, HEREINAFTER DESCRIBED, AND CONTINUE 4023.4 FEET TO AN IRON PIPE, 1 INCH IN DIAMETER, STANDING ON THE EASTERLY SIDE OF THE SAID 677.801 ACRE TRACT; THENCE ALONG THE EASTERLY SIDE OF THE SAME,
- (3) NORTH $4^{\circ} 14' 30''$ EAST, 3873.49 FEET TO A 4 X 4 SURVEY POST MARKED L3, A,B,4, STANDING AT THE NORTHEAST CORNER OF THE SAID 677.801 ACRE TRACT, AND THENCE ALONG THE NORTHEAST SIDE OF THE SAME,
- (4) NORTH $51^{\circ} 31'$ WEST, 3400.2 FEET TO THE PLACE OF BEGINNING

ALSO, AN EASEMENT OF WAY FOR ROAD PURPOSES AND UTILITY PURPOSES, OVER A STRIP OF LAND 10 FEET WIDE, LYING ADJACENT, CONTIGUOUS AND SOUTHWESTERLY OF COURSE AND DISTANT NO (2) OF THE ABOVE DESCRIBED 356.767 ACRE TRACT, TO-WIT: (2) SOUTH $72^{\circ} 56' 30''$ EAST, 4023.4 FEET

EXHIBIT B

LEGAL DESCRIPTION - PAGE 2PARCEL II:

A WELL LOT, OF SIZE, 50 FEET BY 50 FEET SQUARE, DESCRIBED AS FOLLOWS TO-WIT; COMMENCING AT SURVEY STAKE, STANDING IN THE CENTER LINE OF AN EASEMENT FOR ROAD PURPOSES AND UTILITY PURPOSES, HEREINAFTER DESCRIBED, AND FROM WHICH A STEEL BAR STANDING AT A 6X6 GATE POST MARKED "2", STANDING AT THE SOUTHEAST CORNER OF THE SAID 677.801 ACRE TRACT BEARS THE FOLLOWING TWO (2) COURSES AND DISTANCES:

FIRST: ALONG THE CENTER OF THE SAID EASEMENT OF WAY FOR ROAD PURPOSES AND UTILITY PURPOSES, SOUTH 38° 31' WEST, 124.74 FEET TO SURVEY STAKE, STANDING AT POINT "B" ON THE NORTHEAST SIDE OF THE CALIFORNIA STATE HIGHWAY (90 FEET WIDE), AND

SECOND: ALONG THE NORTHEAST SIDE OF THE CALIFORNIA STATE HIGHWAY AND SOUTHWEST SIDE OF THE SAID 677.801 ACRE TRACT, SOUTH 51° 29' EAST, 1000.48 FEET TO THE SAID SOUTHEAST CORNER OF THE SAID 677.801 ACRE TRACT, AND RUNNING THENCE FROM SAID POINT OF BEGINNING, ALONG THE SOUTHWEST SIDE OF SAID WELL LOT,

- (1) SOUTH 51° 29' EAST, 25 FEET TO SURVEY POST; THENCE
- (2) NORTH 38° 31' EAST, 50 FEET TO A SURVEY POST; THENCE
- (3) NORTH 51° 29' WEST, 50 FEET TO SURVEY POST, THENCE
- (4) SOUTH 38° 31' WEST AT 17.47 FEET A POINT, NOW CALLED POINT "C", AT INTERSECTION WITH AN UNDERGROUND REINFORCED CONCRETE FORCE LINE, 16' INCHES IN DIAMETER, FOR FURTHER DESCRIPTION AND CONTINUE 50 FEET TO SURVEY POST, AND THENCE
- (5) SOUTH 51° 29' EAST, 25 FEET TO THE PLACE OF BEGINNING

ALSO, AS AN APPURTENANCE TO THE SAID AND ABOVE DESCRIBED WELL LOT, CONTAINING 0.057 OF AN ACRE, AN EASEMENT OF WAY, FOR ROAD PURPOSES, AND UTILITY PURPOSES, 20 FEET WIDE, OVER A STRIP OF LAND 20 FEET WIDE, LYING EQUALLY 10 FEET IN WIDTH, ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE, TO-WIT: COMMENCING AT SURVEY POST POINT "B", STANDING ON THE NORTHEAST SIDE OF THE CALIFORNIA STATE HIGHWAY (90 FEET WIDE), AND ON THE SOUTHWEST SIDE OF THE SAID RIANDA 677 801 ACRE TRACT, AND FROM WHICH A STEEL BAR STANDING AT A 6 X 6 GATE POST MARKED "2", STANDING AT THE SOUTHEAST CORNER OF THE SAID RIANDA 677.801 ACRE TRACT BEARS SOUTH 51° 29' EAST, 1000.48 FEET DISTANT, AND RUNNING THENCE ALONG THE CENTER OF THE SAID EASEMENT OF WAY,

- (1) NORTH 38° 31' EAST, 124.74 FEET TO THE ABOVE DESCRIBED WELL LOT

EXCEPTING THEREFROM ALL THAT PORTION IN THE DEED TO THE STATE OF CALIFORNIA IN BOOK 1867, PAGE 288, OFFICIAL RECORDS.

LEGAL DESCRIPTION - PAGE 3PARCEL III:

AN EASEMENT OF WAY, AS AN APPURTENANCE TO THE ABOVE DESCRIBED PARCEL I, AND THE ABOVE DESCRIBED WELL LOT, SAID EASEMENT OF WAY BEING FOR THE OPERATION OF THE EXISTING REINFORCED CONCRETE FORCE LINE (HEREINAFTER REFERRED TO) AND FOR REPAIR, UPKEEP AND REPLACEMENT THEREOF, AND EXTENDING FROM THE ABOVE DESCRIBED WELL LOT, TO THE SOUTHWESTERLY SIDE OF THE ABOVE DESCRIBED PARCEL I, AND OVER A STRIP OF LAND 20 FEET WIDE, LYING EQUALLY 10 FEET IN WIDTH ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE, WHICH IS ALSO THE CENTER LINE OF THE SAID REINFORCED CONCRETE FORCE LINE, 16 INCHES IN DIAMETER, COMMENCING AT STATION, AND POINT "C" ON THE NORTHWEST SIDE OF THE ABOVE DESCRIBED WELL LOT, AND RUNNING THENCE OVER A PORTION OF THE SAID RLANDA 677.801 ACRE TRACT, (1) NORTH 11° 06' WEST, 3965.85 FEET TO ITS INTERSECTION WITH THE SOUTHWEST SIDE OF THE ABOVE DESCRIBED PARCEL I, AT POINT "A" OF THE DESCRIPTION THEREOF

EXCEPTING AN EASEMENT FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A PIPELINE OF PIPELINES, FOR IRRIGATION AND DOMESTIC USAGES, OVER A STRIP OF LAND 30 FEET WIDE, LYING CONTIGUOUS TO AND SOUTHEASTERLY OF THE COUNTY ROAD, FROM SOLEDAD TO OLORIA (40 FEET WIDE), WHICH IS ALSO THE NORTHWEST SIDE OF THE SAID 677.801 ACRE TRACT, AND LYING CONTIGUOUS TO COURSE AND DISTANCE NO (1) OF THE ABOVE DESCRIBED 356.767 ACRE TRACT, AND SOUTHEASTERLY THEREOF, TO-WIT:

(1) SOUTH 17° 02' 45" WEST, 5019.1 FEET, AND BEING A PORTION OF THE SAME EASEMENT, FOR SUCH PURPOSES, AS CONVEYED IN THE DEED FROM STEPHEN H. RLANDA, ET UX., TO HILLVIEW FARMS CO., A COPARTNERSHIP, DATED JUNE 26, 1946, RECORDED AUGUST 14, 1946 IN VOLUME 924 AT PAGE 255 THEREIN, MONTEREY COUNTY OFFICIAL RECORDS, CALIFORNIA.

TOGETHER WITH THE UNDERGROUND REINFORCED CONCRETE FORCE LINE, 16 INCHES IN DIAMETER, TOGETHER WITH THE GATE VALVES THERETO, ATTACHED, WHICH IS NOW USED FOR THE PUMPING OF WATER, FROM THE ABOVE DESCRIBED WELL LOT, TO THE ABOVE DESCRIBED IN PARCEL I, AND WHICH CONCRETE FORCE LINE, LIES IN THE CENTER LINE OF THE EASEMENT 20 FEET WIDE FOR, THE SAME, HEREINABOVE DESCRIBED UNDER PARCEL III.