

RESOLUTION NO 2294

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
 AUTHORIZING THE EXECUTION OF A JOINT POWERS AGREEMENT
 BETWEEN THE CITY OF SOLEDAD AND THE STATE OF
 CALIFORNIA FOR EXPANSION OF THE CITY'S WASTEWATER
 TREATMENT FACILITIES AND SERVICE TO THE
 CALIFORNIA STATE PRISON - MONTEREY
 COUNTY AT SOLEDAD

BE IT RESOLVED by the Council of the City of Soledad that the Mayor and/or City Manager is hereby, authorized and directed for and on behalf of the Council of the City of Soledad, to execute with the State of California a Joint Powers Agreement for expansion of the City's Wastewater Treatment Facilities and service to the California State Prison - Monterey County at Soledad in the form of the document hereunto attached, marked Exhibit "A", and by reference made a part hereof, with the exception that the Agreement acknowledge that the state prison in Monterey County is in the City of Soledad

PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 22nd day of November, 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

NAYES, Councilmembers. None

ABSENT, Councilmembers. None



 MAYOR OF THE CITY OF SOLEDAD

ATTEST



 CITY CLERK OF THE CITY OF SOLEDAD

**JOINT POWERS AGREEMENT BETWEEN THE CITY OF SOLEDAD
AND THE STATE OF CALIFORNIA FOR EXPANSION OF THE CITY'S
WASTEWATER TREATMENT FACILITIES AND SERVICE TO THE
CALIFORNIA STATE PRISON -- MONTEREY COUNTY AT SOLEDAD**

This agreement is made between the City of Soledad, a public municipality incorporated within the County of Monterey, State of California (hereinafter "City") and the State of California, acting by and through the Department of Corrections (hereinafter "CDC") and shall be effective as of the date on which it is fully executed by all of the parties.

W I T N E S S E T H

WHEREAS, CDC currently operates a state prison in the County of Monterey within the incorporated limits of the City of Soledad, and

WHEREAS, currently, wastewater generated by this existing state prison is treated and disposed of on the prison site; and

WHEREAS, CDC is authorized, has been funded, and proposes to develop, construct and operate a second state prison within the County of Monterey in the vicinity of Soledad, and

WHEREAS, the development and operation of the new prison will require conveyance treatment and disposal of wastewater generated by that prison, and

WHEREAS, the City operates a wastewater treatment and disposal facility and wishes to provide service to both prisons; and

WHEREAS, CDC wishes to contract with the City for the provision of such services; and

WHEREAS, it is estimated that the two prisons will require capacity adequate to accommodate an annual average daily flow of 2.1 million gallons per day (MGD) in any treatment and disposal facility which serves its needs; and

WHEREAS, the City's existing wastewater conveyance and treatment facilities are inadequate to convey, treat and dispose of the volume of wastewater generated by the prisons in accordance with Regional Water quality Control Board requirements; and

WHEREAS, the parties have determined that it is in their common interest to jointly provide for expansion, extension, additions and/or improvements to certain portions of the City's existing wastewater conveyance, treatment and disposal system, as described in this Agreement, so that it can adequately serve the prisons; and

WHEREAS, the City has a need to provide wastewater service to the Dole Processing Facility by April 1, 1994, where such facility is currently being constructed in the vicinity of the prison, and

WHEREAS, the parties hereto have agreed that in order to meet the April 1, 1994 service date, the City will proceed to design and construct an 18-inch pipeline that will jointly serve the prisons and the Dole Processing Facility; and

WHEREAS, the City is unable to obtain funding for the pipeline project within the time specified above, costs associated with design, bidding, construction and administration of the pipeline project will be paid by CDC at such time that project funding is approved by the state, and

WHEREAS, the City agrees to treat wastewater from all of its customers, including the prisons, in accordance with requirements of the Regional Water Quality Control Board, Monterey County Department of Health and other regulatory agencies requirements after such expansion and improvement are completed, and

WHEREAS, the parties hereto have agreed that it is in their common interest to provide for the terms and conditions which will govern future operations, maintenance, replacement, and repair of the City's wastewater conveyance, treatment and disposal facilities; and

WHEREAS, the parties agree that, in return for CDC's contribution to the capital improvements, as described in this Agreement, the City will dedicate to the exclusive use of CDC, sufficient capacity to treat and dispose of an annual average daily flow of 2.1 MGD from the prisons in its wastewater conveyance system, treatment plant and disposal facilities.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS

A. WASTEWATER PIPELINE

1. The City shall provide all design work, specifications, bid documents, construction administration and inspection, and by means of competitively bid contract or contracts secured by corporate surety performance and labor and material bonds, construct an 18-inch diameter pipeline, in accord with said design, from the prison to the City's wastewater treatment plant. The improvements shall include the following:

a. Approximately 22,000 feet of pipeline from the prison to the City's wastewater treatment plant.

b. Provision for connection of a pipeline from the Dole Processing Facility to the 18-inch pipeline.

c. Flow control structure (splitter box) and plant site piping to convey wastewater to treatment ponds located at the City's wastewater treatment plant.

2. The City shall proceed to design the pipeline using topographic mapping provided by CDC. CDC shall review the construction drawings and specifications at intermediate and final completion levels and provide review comments, that as appropriate, shall be incorporated into the documents. The City shall furnish design documents, cost estimates and other associated information to assist CDC in securing project funding.

3 The City shall acquire any easements, right-of-way and other property interests which may be required for construction and/or operation of the facilities required which are located outside of lands owned in fee by CDC.

4 In the event that City includes any betterment in the facilities referred to in paragraph A1 above, meaning any expansion, change, additional appurtenances, etc., which betterments are not required to provide service to the prison, the City is to be solely responsible for all costs associated and/or generated by these non-prison related betterments.

5 Concurrently with execution of this Agreement and continuing thereafter throughout performance of and until acceptance of all of the work provided for in paragraph A1 above, the City shall deliver to CDC certificates of insurance naming the State, its officers, agents, employees and representatives as additional insureds on City's property damage and personal injury liability insurance which covers City's operations incidental to the construction. The certificates shall provide that the coverage shall be primary, that the State will not be responsible for premiums, assessments or other costs of the insurance, and that the coverage shall not be canceled or modified without 15 days prior written notice to CDC.

6. CDC shall pay ninety-nine percent (99%) of City's costs for construction and one hundred percent (100%) of its costs for design, bidding, inspection, maintenance easement fees and other administrative costs associated with the pipeline after funding approval by the State Public Works Board, which is scheduled for December 10, 1993

7 Subject to the approval and availability of project funds, CDC shall pay to the City, upon presentation of City's billings and CDC approval of such billings, the amounts owed by the City to its construction contractor for work completed on the pipeline during the previous month, less the cost of any betterment referred to in paragraph 3 above, plus engineering, inspection and applicable administrative costs. Invoices should be sent to CDC, Planning & Construction Division, Contract Management Unit, Room 312, P O Box 942883, Sacramento, CA 94283-0001.

B. WASTEWATER TREATMENT/DISPOSAL FACILITIES

1. CDC shall provide all design work, specifications, bid documents, construction administration and inspection and shall construct improvements to the City's wastewater treatment plant and disposal facilities. These improvements shall be limited to additions to, or modification, or expansion of the following facilities/appurtenances only:

- a. addition of ponds
- b. installation of mechanical aerators
- c. Plant piping and flow control structures
- d. Percolation basins

2. The basis for design of the City's wastewater treatment plant shall be as presented in a report prepared by Kennedy/Jenks Consultants titled "Wastewater Treatment and Disposal Predesign Report" dated July 1993. The basis for the design is further supplemented by a document attached hereto, dated 8/9/93, and titled "Agreement Concerning Implementation of the M.O.U. between the City of Soledad and the County of Monterey, Division of Environmental Health to Implement a Wastewater Reclamation Program." In case of conflicts arising from interpretation of the two bases for design documents, the Predesign Report shall take precedence.

3. The improvements described in paragraphs A1 and B1 above shall be in accordance with the one hundred percent (100%) final construction documents, which shall be prepared by a consultant mutually agreeable to CDC and the City. The final construction documents shall be based upon performance criteria

jointly developed by CDC, the City and the consultant as prescribed in the predesign report or as mutually agreed upon in writing.

4 The City shall be permitted to review and comment upon engineering and construction documents, provided that such review and comment shall be accomplished within time frames established by CDC upon transmittal of the documents to the City so as not to delay CDC's planning or construction schedules. CDC will give due and reasonable consideration to all timely comments received from the City

5a. The City shall be permitted to inspect construction and review shop drawings, provided that such inspection or review is coordinated with CDC and is scheduled so as to avoid delay of construction. The City shall not directly give instruction to the contractor. Any direction shall be through the CDC representative.

5b. The City agrees to defend, indemnify and hold harmless CDC against any claims, lawsuits or judgments for delays and additional costs in the construction of the facility which results from the acts or omissions of the City, its officers, employees and agents.

6. The City represents that its wastewater treatment and disposal facilities currently have a capacity to treat and are treating a capacity of approximately 0.5 MGD of municipal wastewater with a Biological Oxygen Demand (BOD) strength of approximately 250 milligrams per liter (mg/l). The improvements described in paragraph B1 of this Agreement will expand the capacity of the City's treatment and disposal facilities by approximately 2.6 MGD having a BOD strength to

410 mg/l. Of that additional 2.6 MGD capacity, 2.1 MGD shall be dedicated to use by the prisons and the remaining 0.5 MGD shall be available for anticipated growth within the City of Soledad. All of the costs reasonably associated with increasing the capacity of the treatment and disposal facilities to 2.6 MGD, including but not limited to the costs of performing the design work, preparing the specifications and bid documents, constructing the improvements, resolving disputes and change orders, shall be shared by CDC and the City. CDC's share shall be eighty percent (80%) and the City's share shall be twenty percent (20%), which represents the City's fair share based upon the ratio between 0.5 MGD and 2.6 MGD and an increase in treatment capacity for BOD strength from 250 mg/l to 410 mg/l.

7 Wastewater generated at the prisons will be collected and piped directly to a headworks structure which will be constructed on the prison site. There will be no pre-treatment of the wastewater before it reaches the headworks structure. Wastewater entering the headworks structure will be screened of solid particles larger than approximately 0.50 inches. Such screened solids will be removed from the waste stream and disposed of by CDC. After such screening, the waste stream will be metered and subsequently pumped through the pipeline described in paragraph A1 to the wastewater treatment plant. CDC shall retain ownership of the headworks structure and will bear all costs associated with the design, construction, operation, repair and maintenance of the headworks structure, including the costs of pumping the prison-generated wastewater to the City's wastewater treatment plant.

8. Within 15 days of the award of the construction contract for improvements described in paragraphs B1 above, the City shall pay to CDC. (1) twenty percent (20%) of costs actually incurred by CDC up to that point in furtherance of the work covered by paragraphs B1 and (2) twenty percent (20%) of the bid accepted by CDC. After construction completion of the improvements covered by paragraphs B1 above, but before transfer of said improvements to the City pursuant to paragraph 10 of this agreement, CDC shall submit to the City an invoice for the City's proportionate share of any additional, reasonable and necessary costs incurred in completing the improvements, including change orders and claims. CDC shall provide supporting documentation to the City for review. The City may elect to have CDC recoup said sums from the City through credits applied against its monthly service fees, with a maximum monthly credit allowance of fifty percent (50%) of the total monthly service fee.

9. Eighty percent (80%) of the purchase price and eighty percent (80%) of other fees related to the purchase, i.e., escrow fees, closing costs paid by the City for the approximately 280 acres of land to be used for the construction of the wastewater treatment and disposal facility improvements covered by this Agreement shall be credited against the City's twenty percent (20%) share of costs defined in paragraph 6 above.

10. Upon completion of the construction of the improvements described in paragraphs B1 above, CDC shall transfer to the City 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's consultants, and such variance renders them materially less valuable, inoperable, grossly inefficient, or dangerous, the City may refuse to accept them. At the time of transfer, CDC will assign and transfer all warranties to the City. After transfer of the improvements to the City, the City shall own and have the responsibility for operation, maintenance, replacement or repair all of those improvements.

11. In addition to transferring the improvements pursuant to paragraph 10 above, CDC shall convey to the City, using documents acceptable to the State, all easements or rights-of-way necessary for the City to operate, maintain, replace, or repair said improvements.

12. In consideration of the capital improvements to the City's wastewater treatment and disposal system made by CDC pursuant to this Agreement, the City shall serve the prison facilities and any additions thereto, in accordance with the terms and conditions of this agreement and shall dedicate to CDC, for its exclusive use, conveyance, treatment, storage, and disposal capacity adequate to accommodate an average annual daily flow of 2.1 MGD, with a maximum daily flow of 2.6 MGD. However, subject to the provisions in paragraphs 15, 16 and 17 below, the City shall accept flows in excess of these amounts, provided it had the capacity in its system to do so. Charges related to treatment and disposal of such additional flows shall be at the same rate as all other flows from the prison.

13 Following the transfer and acceptance of the improvements described in paragraphs 1 and 2 above, and in return for wastewater treatment and disposal service, CDC shall pay to the City a monthly charge, based upon a rate of \$.00071 per gallon, as measured at the prison headworks structure. Said rate may be adjusted 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. Any such adjustment must be made equally applicable to all residential customers. Except as provided in paragraph 16 below, said rate shall not include any capital facilities fees.

14 Provided CDC does not convey to the City's treatment plant wastewater with an average annual BOD level greater than 410 milligrams per liter (mg/l), it shall not be charged in excess of the residential equivalent rate for wastewater it delivers to the City except for BOD variations. Should CDC's BOD load exceed this level and result in additional costs to the City, CDC will pay a higher rate reflecting these higher loadings, provided that such rate is fair, reasonable, customary and non-discriminatory.

15 In no event shall CDC pay any capital facilities fees whatsoever, as long as CDC's flows do not exceed an average annual BOD level greater than 410 mg/l delivered to the City and a daily flow of 2.1 MGD, with a maximum daily flow of 2.6 MGD.

16. Should operations at the prison increase the BOD loading to the wastewater treatment plant above an annual average of 410 mg/l (through the

development of prison industries or any other operations not contemplated at the time of entering this Agreement), CDC shall provide any necessary pretreatment so as to conform to the City's applicable pretreatment ordinance, provided that such ordinance is reasonable, customary and non-discriminatory. CDC shall have the option to either provide for pretreatment on the prison site or to pay the actual and reasonable costs of providing pretreatment for CDC wastewater at City-owned and operated facilities, including capital facilities fees consistent with Government Code Sections 54999-54999.6 and all other applicable laws.

17 Should CDC, in the future, require capacity in the City's system, in excess of a daily flow off 2.1 MGD, with a maximum daily flow of 2.6 MGD, CDC shall pay its proportionate share (based upon such additional need) of any capital improvements made by the City which result in expansion of those portions of the system serving CDC. Said capital facilities fees shall be consistent with Government Code Sections 54999-54999.6 and all other applicable laws.

18. The matters stated in the introductory recitals of this Joint Powers Agreement shall constitute binding representations and stipulations between the parties.

19 CDC shall be responsible for, and shall obtain, all necessary approvals or permits from the California Regional Water Quality Control Board, the Monterey County Department of Health and other regulatory agencies having jurisdiction over the treatment and/or disposal of wastewater. The City shall cooperate and assist CDC, where necessary, in obtaining such permits.

20. The parties specifically state and stipulate that no new agency or entity is intended to be created by this Joint Powers Agreement.

21 Pursuant to Government Code Section 6504, the City, if reasonably necessary to mitigate any damages which may be sustained as a result of any breach by CDC of any term of this Agreement, may contribute funds to, or construct the improvements where not heretofore or otherwise required by City, and City shall have the right to seek recovery of all such costs, constructions and interest thereon from CDC.

22. Likewise, pursuant to Government Code Section 6504, CDC, if reasonably necessary to mitigate any damages which may be sustained as a result of any breach by the City of any term of this Agreement, may contribute funds to, or construct, the improvements where not heretofore or otherwise required by CDC, and CDC shall have the right to seek recovery of all such costs, constructions and interest thereon from the City

23 This Agreement shall be binding upon the successors or assigns of the parties. The successors or assigns shall be entitled to all of the rights and privileges and subject to all of the obligations and responsibilities of their predecessors. The term of this Agreement shall be indefinite and it shall continue until terminated by agreement of the parties or pursuant to applicable statutory authority

24 The City has no responsibility or liability for the improvements to be constructed by CDC pursuant to this Agreement until acceptance by the City

25 Pursuant to the provisions of Government Code Section 10532, the parties hereto shall be subject to examination and audit by the State Auditor for a period of three (3) years after final payment is made under this Agreement, concerning matters related to performance of this Agreement.

26. The City shall provide to CDC, promptly upon request, all records of expenditures and accountings relating to the operation of the wastewater treatment plant and related facilities.

27 Any waiver at any time by either party hereto of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any other breach, default, or matter

28. The use by either party of any remedy specified herein for the enforcement of this Agreement is not exclusive, and shall not deprive the party using such remedy of, or limit the application of any other remedy provided by law

29 This Agreement constitutes the entire agreement of the parties, which may be modified only upon mutual, written consent.

30. All risk of loss or injury or destruction to any and all of the facilities or improvements to be constructed by CDC pursuant to this Agreement shall be upon CDC prior to their transfer to, and acceptance by, the City On or after the date of such transfer and acceptance, all risk of loss or injury or destruction to any and all of such facilities or improvements shall be upon the City All risk of loss or injury

or destruction to any and all of the existing facilities constructed by the City shall be upon the City

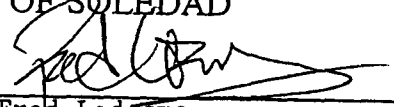
31. The City shall have full right, upon the request for the City, to copies and unlimited use of design, specifications, and bid documents, whether in draft or final form, as well as all underlying documents regarding same, along with all contracts, agreements, warranties and extensions of warranties obtained by CDC, its agents, employees, representatives, or assigns, concerning any of the construction, improvements, or matters above-described, whether before or after transfer of improvements above-described to the City

32. CDC shall provide for the City's review and acceptance, an Operation and Maintenance Manual for the wastewater treatment plant and disposal facilities constructed pursuant to this Agreement.

IN WITNESS OF THE FOREGOING the parties, by and through their duly authorized representatives, have made and entered into this Agreement as of the date of execution by both parties.

CITY OF SOLEDAD

DEPARTMENT OF CORRECTIONS

By: 
Fred Ledesma

By: 
FRANK E RENWICK, Chief


Its: Mayor

Its: Contract & Audit Management Branch

Date. December 8, 1993

Date. 12/23/93

This Agreement is hereby approved pursuant to the authority granted by Penal Code Section 7001.

By: 

Date. 12/23/93

AGREEMENT CONCERNING IMPLEMENTATION OF THE MEMORANDUM
OF UNDERSTANDING (MOU) BETWEEN THE CITY OF SOLEDAD
AND THE COUNTY OF MONTEREY DIVISION OF
ENVIRONMENTAL HEALTH TO IMPLEMENT
A WASTEWATER RECLAMATION
PROGRAM (FEBRUARY 1992)

A. BACKGROUND

Two meetings were held June 30 and July 23, 1993 to reach necessary agreements between the County of Monterey and the City of Soledad for the implementation of a wastewater reclamation program for the expansion of the Wastewater Treatment Plant (WWTP) of the City of Soledad.

B. PURPOSE

The purpose of this agreement is to provide assurances to the City of Soledad, California Department of Corrections and Dole Fresh Vegetables that the Monterey County Division of Environmental Health (D.E.H.) agrees to allow the construction and use of the expanded wastewater treatment plant (WWTP) of the City of Soledad in accordance with; (1) the May 1993 K/J 932516.00 Soledad Wastewater Treatment and Disposal Pre-Design Study prepared by Kennedy/Jenks Consultants for CH2M Hill/California Department of Corrections and (2) the requirements of the State of California Regional Water Quality Control Board, subject to the following caveats:

The items contained in this agreement are consistent with the existing MOU between the City of Soledad and Monterey County to implement a wastewater reclamation program.

C. TERMS FOR DESIGN, OPERATION AND MAINTENANCE

- 1) Approximately 20% of the proposed secondary ponds will be lowered 4' and these lowered sections will be sealed. The bottom elevation of the remaining portion of the proposed secondary ponds shall remain at the current elevations. These shall be allowed to form natural organic seals. The City of Soledad agrees it will not disc these ponds and the Monterey County D.E.H. agrees that no permanent liner will be required.

*Permanent SS-lined
(WW) & D*

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2) When sludge and/or solids removal needs to be undertaken, integrity of the natural organic seals will not be reduced or affected to the maximum extent feasible.

3) The rapid infiltration/reclamation basins not needed solely for infiltration shall be used for growing fodder crops or other agricultural uses so as to maximize the percentage of wastewater reclamation. The total acreage in production, basin rotation and fodder crop types shall all be considered by the City of Soledad in order to maximize agricultural reclamation. In the event State or County discharge conditions and requirements result in a need to temporarily or permanently increase infiltration areas and decrease agricultural uses, the use of the rapid infiltration basins as additional rapid infiltration area shall have higher priority. The Monterey County D.E.H. shall be notified if such conversion is needed.

4) The use and application of reclaimed wastewater for sod, ornamental shrubs or other similar crops of direct human contact shall be subject to the prior approval of the Monterey County Director of Environmental Health.

5) The City of Soledad agrees to submit a plan for its first twelve (12) months of reclamation activities to the Monterey County D.E.H. for its conceptual review and written comments prior to implementation.

6) The City of Soledad will monitor its effluent for nitrate-nitrogen content, as outlined in its letter of July 27, 1993 in response to the Monterey County D.E.H. letter on the subject dated June 25, 1993. This same monitoring program shall be applicable to the expanded WWTP.

7) In the event that the effluent from the expanded WWTP does not meet the nitrate standards as set forth in Chapter 15.23 of Monterey County Code, The City of Soledad shall be required to undertake any design, maintenance, and/or operational change or improvement as necessary to comply. The Monterey County D.E.H. has reviewed the Pre-Design Study and recommendations contained in the May 1993 study by Kennedy/Jenks. The Monterey County D.E.H. recommends that minor design, operational, and maintenance changes from those contained in the Kennedy/Jenks study be implemented to facilitate additional nitrogen removal prior to construction and operation of the expanded WWTP. The specific recommendations are:

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a) Aeration rates, rotation times/intervals, use of timers, dosing/drying intervals, discing depths and frequencies should be evaluated by qualified Engineers in order to provide the City of Soledad with appropriate operational and maintenance guidelines.

b) Minor pond design modifications should be made to primary, secondary, and/or percolation/infiltration ponds as appropriate in order to facilitate nitrogen removal.

Blair King 5/9/93
Blair King, City Manager
City of Soledad

Walter Wong
Walter Wong, Director
County Environmental Health