

RESOLUTION NO. 4150

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENTS
OUTLINING SPECIFIC MITIGATION MEASURES AND REMEDIES IN ORDER TO
AVOID OR CORRECT FATS, OILS, AND GREASE RELATED PROBLEMS AT THE
BENITO FARM LABOR CENTER, BENITO AFFORDABLE HOUSING PROJECT,
AND THE MONTEREY STREET AFFORDABLE HOUSING PROJECT**

WHEREAS, The Benito Street Affordable Housing Project at 425 Benito Street, consisting of 70 residential housing units, The Benito Farm Labor Center on 425 Benito Street, consisting of 73 residential housing units and the Monterey Street Affordable Housing Project on 266 First Street, consisting of 52 housing units, are three new housing projects that have been developed, are under construction, or under development in the City of Soledad; and

WHEREAS, it was discovered that the sewer lines at the above three projects were flat and not appropriate to keep the sewer lines clean from fats, oils and grease ("FOG") deposits; and

WHEREAS, under the State Sanitary Sewer Permit for the City, a FOG Mitigation Program is required; and

WHEREAS, instead of installing grease interceptors in each housing unit, the City of Soledad and the Soledad Housing Authority (a limited partner in all three projects) both agreed that a mitigation agreement was the best solution to solve the problems of household FOG.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Soledad that the Council authorizes the City Manager to enter into three "Fats, Oils and Grease Mitigation Agreements for the Benito Street Affordable Housing Project, the Benito Farm Labor Center and the Monterey Street Affordable Housing Project outlining specific mitigation measures and remedies that must be employed at said projects in order to avoid or correct FOG related problems, in the form attached hereto and by this reference incorporated herein.

PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 16th day of January 2008, by the following vote:


AYES, and in favor thereof, Councilmembers: Martha Camacho, Juan Saavedra, Patricia Stephens, Mayor Pro Tem Christopher Bourke, Mayor Richard Ortiz

NOES, Councilmembers: None

ABSENT, Councilmembers: None

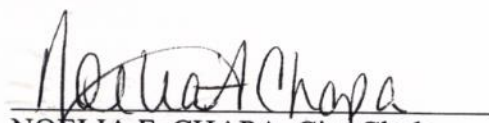
ABSTAIN, Councilmembers: None

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RICHARD V. ORTIZ, Mayor

ATTEST:



NOELIA F. CHAPA, City Clerk

FATS, OILS AND GREASE MITIGATION AGREEMENT

RECITALS

- A. The Benito Farm Center L.P., a California limited partnership ("Partnership"), is improving and rehabilitating the existing Farm Labor Center at 425 Benito Street, Soledad CA 93960 (the "Center"), consisting of 73 housing units.
- B. The City of Soledad ("City") has opined that a number of on-site factors lead to a potential for a build-up of fats, oils and grease ("FOG") in the sanitary sewer lines at the Center, that could in turn lead to on and off-site sewer spills and back-ups if not properly monitored and mitigated.
- C. Partnership, City and the Soledad Redevelopment Agency ("Agency") have agreed to enter into an agreement outlining specific mitigation measures and remedies that must be employed by Partnership at the Center in order to avoid or correct FOG related problems.

NOW THEREFORE, in consideration of the aforesaid recitals and the conditions and promises set forth below, Partnership, City and Agency (City and Agency collectively referred to hereafter as "CITY") agree as follows:

1. Performance of Mitigation Work Plan.

Partnership will do and perform, or cause to be done and performed, at Partnership's expense, in a good, timely and professional manner, and will furnish all required materials, all to the satisfaction of City, all of the acts, measures, promises and obligations set forth in that document titled "Mitigation Work Plan" ("Plan"), a copy of which is attached hereto as Exhibit A and by this reference incorporated herein as though set forth in full. Partnership is responsible for obtaining all necessary permits, fees and other entitlements required for fulfilling its obligations pursuant to the Plan.

2. Term

This Agreement shall commence upon execution by the parties hereto and shall remain in full force and effect from the date of issuance of the last certificate of occupancy for the Center until the completion of a five (5) year period without the need for use of any FOG mitigation measure identified in the Plan. In the event Partnership and CITY agree to the use of a permanent and ongoing alternative means of mitigating potential FOG impacts, such as installation of an on-site grease trap interceptor, the Agreement will terminate upon installation, inspection and approval of said alternative.

3. **Hold Harmless Agreement.** Partnership hereby agrees to, and shall, hold CITY, its elective and appointive boards, commissions, officers, agents and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage or related fines or penalties, which may arise from Partnership or Partnership's contractors', subcontractors', agents' or employees' operations under this Agreement, whether such operations be by Partnership or any of Partnership's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Partnership, or any of Partnership's contractors or subcontractors. Partnership

agrees to and shall defend CITY and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity from damages caused, or alleged to have been caused, by reason of any of the aforesaid operations.

4. **Partnership Not Agent of CITY.** Neither Partnership nor any of Partnership's agents or contractors are or shall be considered to be agents of CITY in connection with the performance of any obligation under this Agreement.


5. **Guarantee.** Partnership unconditionally and absolutely guarantees the full and punctual implementation and performance of the Plan and the payment of all expenses and fees necessary for the implementation and performance of the same. This agreement may be enforced by the City against the Partnership. City shall provide Partnership with reasonable notice and cure provisions.

In the event of a breach of the term of this Agreement, CITY may take over the work and prosecute the same to completion, by contractor or other method the CITY may deem advisable, for the account and at the expense of Partnership, and Partnership shall be liable to City for all costs or damages occasioned thereby.

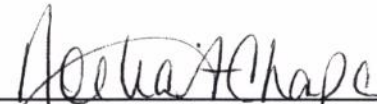
6. **Successors and Assigns.** This Agreement and all of the provisions hereof, shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the respective parties hereto.

BENITO FARM CENTER L.P.

CITY OF SOLEDAD

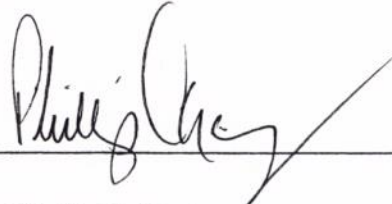
By 

Its General Partner

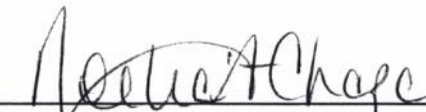
By 
Its City manager

SOLEDAD HOUSING AUTHORITY

SOLEDAD REDEVELOPMENT AGENCY

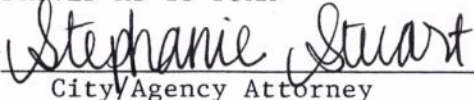
By 

Its Limited Partner

By 
Its ~~City manager~~ Executive Director

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APPROVED AS TO FORM

By 
City Agency Attorney

Mitigation Work Plan

Project	Description	Location of Project Area
Benito Street Farm Labor Center	Benito Street Farm Labor Center will have 73 residential units. It is surrounded by single and multi family residential housing, a high school, and community commercial uses.	The Benito Street Farm Labor Center ("Benito Street FLC") housing community is located in downtown Soledad, Monterey County, California. The Benito Street FLC site is adjacent to Benito Affordable and surrounded by Benito Street, West Street, North Street and Gabilan Drive.

Site Protection and Maintenance

Item	Responsible Party	Responsibilities/Actions
Evidence of Measures	Owner	Owner will include, on quarterly reports to the City, an analysis on all work orders related to sewer backups within the project site.
Maintenance plan	Owner	On site manager will conduct monthly walks of the project to identify any areas where sanitary sewer discharges may have breached surfaces within the project area. If this condition exists, the Owner or Owner's representative will immediately call the Soledad Public Works Department for direction.
Schedule		Monthly visual inspections to begin Oct 1, 2007 and to occur the 1 st of every month thereafter. Quarterly reports to the City to begin January 31, 2008 and cover the period Oct 1 – Dec 31, and are due every quarter thereafter within 30 days of the end of the quarter

Mitigation Monitoring Plan

Item	Responsible Party	Responsibilities/Actions
Sewer Monitoring Schedule	Owner	A baseline video will be given to the City that demonstrates the sanitary line condition prior to any resident move ins, anticipated to be October 1, 2007. Beginning March 31, 2008, the main sanitary lines on site will be videoed and will be videoed every six months for a period of five (5) years, ending March 2011, if there are no monitoring results indicating the need for implementation of a mitigation measure (i.e. fats, oils and grease ("FOG") removal). If a monitoring event indicates the need for mitigation

action, then the plan will be extended until such time that the project has gone five (5) full years with no reportable mitigation measure. The cost of all actions under this Plan will be borne by Owner.

“Main lines on site,” means all main on site sanitary lines connecting to the City Sanitary Sewage Lines

Methods and Reports

A reputable videographer, mutually acceptable to Owner and City, will be engaged to perform the inspection of the project sanitary sewer lines. In the event a mitigation measure, such as FOG removal, is indicated, the Project Owner will engage a reputable solid waste disposal vendor, who will hydro jet the lines and remove the FOG, preventing the FOG from entering the City’s Sanitary Sewage System. The Vendor will be instructed to properly dispose of any FOG collected in the process.

Submissions to the City

Owner will provide the City with a copy of the videotape and any mitigation measure taken will be noted in the quarterly reports to be given to the City.

Adaptive Management Plan

Item	Responsible Party	Responsibilities/Actions
Remedial Measures	Owner	In the event that the goals for this plan are not being met, (i.e. the FOG removal at six month intervals is not preventing a site spill or a discharge in the City main as a result of this site’s deposits), even with increased Education and Resident Outreach, the Owner will meet with the City to discuss alternatives to this monitoring and mitigation plan. Such remedial measures could include the installation of a grease trap interceptor on site, to prevent

discharge to the City's Sanitary Sewage lines.

Financial Assurance

Item	Responsible Party	Responsibilities/Actions
Site Protection and Maintenance Actions	Owner	The Owner will bear all costs associated with on site inspections, work orders related to sewage backups and costs associated with any hazardous spill on site.
Mitigation and Monitoring Plan		The Owner will be responsible for all costs associated with the monitoring and mitigation actions included in this plan, including but not limited to FOG removal costs.
Enforcement Actions for failure		<p>In the event that it is determined that on-site conditions are to be the cause of a localized Sanitary Sewer Overflow in the City's line, then the Owner will be responsible for any related fine assessed by the Regional Water Quality Control Board or any other governmental entity with jurisdiction over hazardous discharges, even if said fines are assessed directly to the City.</p> <p>In addition, an enforcement action pursuant to Section 13.32 of the Soledad Municipal Code may be taken when:</p> <ol style="list-style-type: none"> 1. Quarterly reports are not received by the City as Agreed 2. The Monitoring and Mitigation Plan is not implemented and enforced 3. If a SSO occurs as a result of this projects excessive accumulation of FOGs.

Education and Public Outreach Plan

Item	Responsible Party	Responsibilities/Actions
Resident Outreach – Move In	Owner	The Owner has developed a FOG educational program for residents. They will be oriented at move in as well as receive informational brochures in English and Spanish. Copies of these

materials are hereby incorporated by reference into this plan and are attached.

Resident Outreach – Mitigation Measure is required Owner

In the event hydro jetting and removal of FOG is required at any given 6 month interval, the Owner will conduct outreach meetings with the residents thru our Resident Services initiatives. In addition to those outreach meetings, door hangers will be placed on all units to again remind residents of their obligation to mitigate FOG related issues on this site.