

**RESOLUTION NO. 5069**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD  
APPROVING AN AGREEMENT WITH THE CITY OF GONZALES TO SHARE THE  
COST OF STORMWATER OUTREACH THROUGH FISCAL YEAR 2015/2016**

**WHEREAS**, Soledad operates under a Phase II Stormwater Municipal Permit (WQ Order 2003-0005-DWQ); and

**WHEREAS**, part of the requirements for stormwater management is to perform *measurable* public outreach; and

**WHEREAS**, Soledad has developed a relationship and received a proposal (separate agenda item) from the Save The Whales nonprofit organization to perform the public outreach requirement to comply with the City's stormwater permit; and

**WHEREAS**, Save The Whales has indicated they can offer a reduced total cost if both the City of Soledad and City of Gonzales work together on this program as opposed to separately, so a joint project has benefits for both communities; and

**WHEREAS**, the City of Gonzales has the same requirement and is willing to share the cost; and

**WHEREAS**, due to Soledad's higher population and higher number of schools where outreach will be performed, Soledad's portion of the effort is estimated to be 60% of the project costs for radio, television and school presentations; and

**WHEREAS**, Staff recommends the City Council approve the attached Agreement with the City of Gonzales to share the cost of stormwater outreach through fiscal year 2015/2016.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, by the City Council of the City of Soledad that the "Agreement for Stormwater Education Services Between the City of Gonzales and the City of Soledad," a copy of which is attached hereto as Exhibit "A" and by reference incorporated herein, is hereby approved and the City Manager is hereby authorized and directed to execute the same on behalf of the City of Soledad.

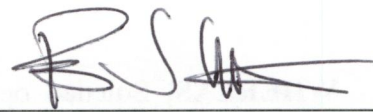
**PASSED AND ADOPTED** by the City Council of the City of Soledad at a regular meeting duly held on the 4th day of March, 2015, by the following vote:

AYES, and in favor thereof, Councilmembers: Christopher K. Bourke, Richard J. Perez, Patricia D. Stephens, Mayor Pro Tem Alejandro Chavez and Mayor Fred J. Ledesma

NOES, Councilmembers: None


ABSTAIN, Councilmembers: None

ABSENT, Councilmembers: None



FRED J. LEDESMA, Mayor

ATTEST:

  
ADELA P. GONZALEZ, City Clerk

**AGREEMENT FOR STORMWATER EDUCATION SERVICES  
BETWEEN THE CITY OF GONZALES AND THE CITY OF SOLEDAD**

This AGREEMENT FOR STORMWATER EDUCATION SERVICES (the "Agreement") is entered into as of March 1, 2015 (the "Effective Date") by and between the CITY OF GONZALES, a general law City and municipal corporation of the State of California ("GONZALES") and the CITY OF SOLEDAD, also a general law City and municipal corporation of the State of California ("SOLEDAD"). GONZALES and SOLEDAD may be referred to separately as "Party" or jointly as "the Parties."

**RECITALS**

A. Both GONZALES and SOLEDAD must comply with the Phase II Storm Water Municipal Permit (WQ Order No. 2003-0005-DWQ) issued by the State Water Resources Control Board.

B. Both GONZALES and SOLEDAD are required to provide Public Education and Outreach as part of their respective Storm Water Municipal Permit.

C. Accordingly, SOLEDAD will provide to GONZALES Public Education and Outreach Services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement, GONZALES and SOLEDAD agree as follows:

**AGREEMENT**

**Section 1. Public Education and Outreach Required by Storm Water Municipal Permit**

1.1 Services to be Provided under this agreement. Both Parties are responsible for conducting Public Education and Outreach, however, it is cost effective for both Parties to share costs associated with the Services identified below. Therefore, SOLEDAD agrees to be the lead agency responsible for coordinating the Public Education and Outreach Services associated with the Storm Water Municipal Permit and GONZALES agrees to pay SOLEDAD for said services subject to the terms and conditions set forth in this Agreement.

1.2 Services. The Public Education and Outreach Services provided by SOLEDAD shall include, but not be limited to the following:

- Community Based Social Marketing (CBSM)
- School Outreach Programs
- Public Outreach Events
- Business and Restaurant Outreach

1.3 Term of Services.

1.3.1 The term of this Agreement is from the Effective Date through June 30, 2016 unless terminated or extended pursuant to this Agreement.

1.3.2 Either Party may terminate the Agreement upon thirty (30) days written notice to the other Party. The length of the aforesaid notice requirement may be reduced upon the mutual agreement of the Parties.

1.3.3 This Agreement may be extended by mutual agreement of both Parties, as memorialized in writing.

#### 1.4 Payment for Service and Registration Fees.

1.4.1 GONZALES agrees to reimburse SOLEDAD for said Services based on submitted and approved invoices during the Term of this Agreement.

1.4.2 Gonzales agrees to pay a share of the program up to the "not to exceed amount" based upon City Population percentage, not counting the prisons.

1.4.3 Gonzales' portion of the Public Education and Outreach Required by Storm Water Municipal Permit is "not to exceed amount" \$12,000 of the estimated \$30,000 overall cost.

1.4.4 The invoiced amount shall be the full amount of payment from GONZALES to SOLEDAD for services rendered pursuant to this Agreement.

1.5 Invoicing. GONZALES shall make payments upon being invoiced by SOLEDAD. If the monthly compensation is not received by SOLEDAD within forty-five (45) days of the invoice date to GONZALES, the amount due shall accrue simple interest at the rate of one percent (1%) per month on the outstanding balance.

1.6 Schedule. The Parties' intent is that they jointly participate in the Public Education and Outreach Required by Storm Water Municipal Permit.

## **Section 2. Indemnity.**

2.1 GONZALES shall indemnify, defend with counsel reasonably acceptable to SOLEDAD, and hold harmless SOLEDAD and its officials, elected officials, officers, employees, agents, volunteers or subcontractors from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of GONZALES or its officials, elected officials, officers, employees, agents, volunteers or subcontractors, by acts for which they could be held strictly liable, or by the quality or character of their work.

2.2 SOLEDAD shall indemnify, defend with counsel reasonably acceptable to GONZALES, and hold harmless GONZALES and officials, elected officials, officers, employees, agents, volunteers or subcontractors, from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of SOLEDAD or its officials, elected officials, officers, employees, agents, volunteers or

subcontractors, by acts for which they could be held strictly liable, or by the quality or character of their work.

2.3 The indemnification provisions contained in this Agreement include any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or negligent acts of any Party to this Agreement, or any of their agents, officers or employees or their performance under the terms of this Agreement.

2.4 It is the intent of the Parties that where negligence is determined by a court of competent jurisdiction to have been shared, principles of comparative negligence will be followed and each Party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that Party's negligence.

2.5 Each Party shall notify the other Party of any claims or legal actions with respect to this Agreement.

### **Section 3. Relationship.**

3.1 Contractual Relationship. The Services provided herein are pursuant to a contract between the Parties and are not meant to create an employer-employee relationship.

3.2 No Agents. Except as the Parties may specify in writing, neither Party has authority, express or implied, to act on behalf of the other Party in any capacity whatsoever as an agent. The Parties shall have no authority, express or implied, pursuant to this Agreement to bind the other Party to any obligation whatsoever.

### **Section 4. Keeping Of Records.**

4.1 Inspection and Audit of Records. Any records or documents required by this Agreement to be maintained shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the other Party.

### **Section 5. General Agreement Conditions.**

5.1 Amendment. This Agreement may be amended or modified in writing duly authorized and executed by both Parties.

5.2 Integration. This Agreement represents the sole and entire agreement between the Parties and supersedes all prior agreements, negotiations and discussions between the Parties hereto and/or their respective counsel with respect to the subject matter of this Agreement.

5.3 Headings. The headings in this Agreement are for convenience only and are not to be construed as modifying or explaining the language in the section referred to.

5.4 Severability. Should any part, term or provision of this Agreement be determined by a court to be illegal or unenforceable, the remaining portions or provisions of this Agreement shall nevertheless be carried into effect.

5.5 Governing Law; Jurisdiction and Venue. The interpretation, validity and enforcement of this Agreement shall be governed and interpreted in accordance with the laws of the State of California. Any suit, claim and legal proceeding of any kind related to this Agreement shall be filed in the Superior Court of Monterey County.

5.6 No Continuing Waiver. No waiver of any term or condition of this Agreement shall be considered a continuing waiver thereof.

5.7 Assignment. This Agreement shall not be assigned without the prior written consent of the other Party. Any attempt to assign this Agreement without the prior written consent of the other Party shall be void and of no force and effect.

5.8 Notice. Notices and communications among the Parties as signed by this Agreement shall be in writing and shall be deemed to have been given when personally delivered or sent by United States Mail, overnight delivery sent to the following addresses:

**GONZALES**

City Manager  
City of Gonzales  
P.O. Box 647  
Gonzales, CA 93926

**SOLEDAD**

City Manager  
City of Soledad  
248 Main Street  
Soledad, CA 93960

5.9 No Third Party Beneficiary. The Parties agree that the provisions of this Agreement are not intended to directly benefit, and shall not be enforceable by, any person or entity not a party to this Agreement.

5.10 Counterpart Execution. This Agreement, or any amendment to this Agreement, may be executed in counterparts, each of which shall be deemed to be an original and said counterpart shall constitute one in the same document which may be sufficiently evidenced by one counterpart.

5.11 Nondiscrimination and Equal Opportunity. The Parties shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any Services provided under this Agreement. The Parties shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any Services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of the Parties thereby.

5.12 Attorneys' Fees. If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that Party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

IN WITNESS HEREOF, the Parties have executed this Agreement in the County of Monterey, State of California as of the Effective Date first set forth above.

**GONZALES**

Date: 3-16-15

By: [Signature]  
City Manager

**SOLEDAD**

Date: 3-10-2015

By: [Signature]  
City Manager

**APPROVED AS TO FORM:**

By: [Signature]  
City Attorney

**APPROVED AS TO FORM:**

By: [Signature]  
City Attorney

