

RESOLUTION NO. 2156

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
 AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH
 KENNEDY/JENKS CONSULTANTS, INC. FOR
 PROFESSIONAL SERVICES


BE IT RESOLVED by the Council of the City of Soledad that the City Manager is hereby authorized and directed for and on behalf of the City Council, to execute with Kennedy/Jenks Consultants, Inc., an agreement for professional services in the form of the document hereunto attached, marked Exhibit "A", and by reference made a part hereof.

PASSED AND ADOPTED by the Council of the City of Soledad at a regular meeting duly held on the 27th day of April, 1992, by the following vote:


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

NOES, Councilmembers: None

ABSENT, Councilmembers: None


 MAYOR OF THE CITY OF SOLEDAD

ATTEST:


 CITY CLERK OF THE CITY OF SOLEDAD

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT made and entered into this 28th day of April, 1992, by and between City of Soledad, 248 Main Street, Soledad, California 93960, hereinafter referred to as the "CITY", and Kennedy/Jenks Consultants, Inc., a California corporation qualified to do business in California with offices at 3336 Bradshaw Road, Suite 140, Sacramento, California 95827 hereinafter referred to as "CONSULTANT".

WITNESSETH

WHEREAS, the CITY desires assistance to accomplish the engineering planning, and pre-design services needed for construction of improvements and expansion to the wastewater treatment plant, to complete a permit application for Monterey County; and technical assistance in the preparation of a Loan/Grant to Farmers Home Administration.

WHEREAS, the CONSULTANT is duly qualified and experienced to provide such services;

NOW, THEREFORE, said CITY and said CONSULTANT, for the considerations hereinafter set forth, mutually agree as follows:

- 1. CONSULTANT services shall be furnished in accordance with the attached Terms and Conditions for Professional Consulting Services Agreements.
- 2. CONSULTANT shall assign Edward Marlow to personally participate in said project.
- 3. CONSULTANT shall perform those services described in the attached "Scope of Work" and CITY shall also pay CONSULTANT the amount detailed in same "Scope of Work".

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF SOLEDAD.

BY [Signature]

ATTEST. [Signature]

APPROVED AS TO FORM: [Signature]

CONSULTANT:

By Edward L. Marlow

1099 INFORMATION:
Tax Payor ID # 94-2142007

SS# _____

Incorporated. Yes No

CITY OF SOLEDAD
TERMS AND CONDITIONS
FOR PROFESSIONAL CONSULTING SERVICES AGREEMENTS

1. DEFINITIONS - "Consultant" shall mean the professional consultant which has entered into the Agreement which by reference is subject to the terms and conditions hereinafter set forth. "City" shall mean the City of Soledad, a municipal corporation or the Soledad Redevelopment Agency, a public entity. "Agreement" shall mean the purchase order, contract or other written instrument constituting the Agreement between the Consultant and the City.

2. AMENDMENT OF SCOPE OF WORK - City shall have the right to amend the Scope of Work within the Agreement by written notifications to the Consultant. In such event, the compensation and time of performance shall be subject to renunciation upon written demand of either party to the Agreement.

3. CITY'S RIGHT TO TERMINATE/SUSPEND CONTRACT - At any time and for any reason, City shall have the right to terminate or cancel the agreement, take possession of the Consultant's studies, preliminary drawings, computations and specifications, insofar as they are complete and acceptable to the City, and pay the Consultant such equitable proportion of the total remuneration as the work actually done by the Consultant at the time of such discontinuance bears to the whole of the work required to be done by the Consultant under the terms of this Agreement.

If City chooses to terminate or suspend the agreement, the Engineer shall have the right to expend additional time to assemble work in progress for the purpose of proper filing and closing the job. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination.

The City, at its sole discretion, may suspend indefinitely or abandon the completion of the project, or any part thereof, and may require the Consultant to suspend the performance of its services. Said right to suspend or abandon shall be without limit or restriction.

If the City thereafter should determine to complete the project, the City shall have the privilege of requiring completion of the drawings, specifications and other documents upon compensation of the Consultant.

4. EMPLOYMENT PRACTICES - Consultant shall not discriminate in his/her performance under the Agreement either directly or indirectly on the grounds of race, color, religion, sex age, or national origin in his employment practices, and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, or national origin.

5. TITLE TO DOCUMENTS - Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Consultant under the Agreement shall be vested in the CITY, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the CITY. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to the City without restriction or limitation on their use.

Reuse of any document by CITY on extensions of this project or on any other project without the written permission of CONSULTANT shall be at CITY's risk, and CITY agrees to defend, indemnify, and hold harmless CONSULTANT from all claims, damages, and expenses including attorneys' fees arising out of such unauthorized reuse of said document or by others acting through CITY. Any reuse or adaptation of documents occurring after the written agreement of CONSULTANT shall entitle CONSULTANT to additional reasonable compensation. Any uncompleted work of CONSULTANT delivered to CITY due to cancellation of all or portions of the work or contract termination which are utilized by CITY in any way shall have CONSULTANT's name removed; and CITY agrees to defend, indemnify, and hold harmless CONSULTANT from all claims, damages, and expenses including attorney's fees arising from any use of uncompleted work.

6. MAGNETIC MEDIUM - If the scope of work under this Agreement includes the delivery by ENGINEER of any writings, drawings, compilations of data or similar work product in a magnetic or electronic medium, ENGINEER will also deliver to CLIENT a printed version of said material, and the latter shall be deemed the true version of ENGINEER's work product should there be any difference between the two.

7. RECORD OR PERFORMANCE - Consultant shall maintain adequate records of contract performance and make these records available for inspection, audit, and copying by the City during the Contract period and for three (3) years from the date of final payment.

8. ASSIGNMENT - The Agreement shall not be assigned by the Consultant in whole or in part, without written consent of the City.

9. PAYMENT - Consultant shall submit itemized monthly statement for work performed. City shall make any payment due within thirty (30) days after acceptance of such bill therefore as accurate. In no event shall any single invoice exceed fifty percent (50%) of total compensation.

10 FEDERAL AND STATE RULES AND REGULATIONS - In the event the Request for Proposal to Provide Professional Consulting Services cites any Federal or State financial assistance involved in the project for which professional services are provided, the Consultant shall have the duty of

performing under the Agreement in accordance with applicable Federal and State Laws, rules, and regulations.

11. CORRECTION OF WORK - The performance of services or acceptance of information furnished by Consultant shall not relieve the Consultant from obligation to correct any defective work subsequently discovered and all incomplete, inaccurate, or defective work shall be remedied by the Consultant on demand without cost to the City.

CONSULTANT's services performed under this AGREEMENT will be performed in a manner consistent with the care and skill ordinarily exercised by members of the profession practicing under similar conditions at the same time and in the same or similar locality. No warranty, express or implied, is made or intended by this agreement, or by the foregoing statement of the applicable standard of care, or by providing consulting services or by furnishing work products, including reports, drawings, and specifications. This AGREEMENT shall not be construed to make any party other than CITY or CONSULTANT a beneficiary of it.

12. CONSULTANT'S LIABILITY - The Consultant shall be responsible for all injuries to persons and for all damage to property of the City or to others caused by or resulting from the negligence of the Consultant, his employees, agents, or subcontractors during the progress of or connected with rendition of services here rendered, and shall defend and hold harmless and indemnify the City and all officers and employees of the City from all cost and payments for damages or injuries arising out of the negligence performance of the work of the Consultant or his subcontractor under this Agreement.

13. PUBLIC LIABILITY INSURANCE - Consultant shall, at his own expense, take out and keep in force during the continuance of this contract

A. A public liability insurance policy, in a company or companies to be approved by the City, to protect the Consultant, his officers, agent, and employees against any liability to the public incident to the work to be performed under this Agreement. Said insurance shall be in the amount of not less than \$500,000 to indemnify against the claim of one (1) person, and the amount of not less than \$1,000,000 against their claim of two (2) or more persons resulting from any on accident.

B. A property damage or other insurance policy in a company or companies to be approved by City, to protect the Consultant, his officers, agents, and employees against any liability incident to or about of not less than \$300,000.

Said policy shall name the City as co-insured and shall obligate the insurance carriers to notify the City in writing not less than thirty (30) days prior to the cancellation thereof, or any other change affecting the

coverage of the policy.

Within thirty (30) days after execution of the contract and prior to the first progress payment, Consultant shall file with City an actual insurance policy.

14. WORKER'S COMPENSATION INSURANCE - The Consultant at his own cost and expense is to procure and maintain during the continuance of this contract a policy of worker's compensation or employer's liability insurance for the protection of his employees, including executive, managerial, and supervisory employees, engaged in the work required by this Agreement.

15. SUBCONTRACTING - None of the services covered by this contract shall be subcontracted without the prior written consent of the City.

16. COVENANT AGAINST CONTINENT FEES - The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, continent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or continent fee.

17. DELAYS AND EXTENSIONS - The Consultant will be granted time extensions for delays beyond the Consultant's control. Time extensions will be equal to the length of the delay or as otherwise agreed upon between the Consultant and the City and shall be approved in writing by the City Manager. In such event, compensation as set forth in a Scope of Work shall be subject to renunciation upon written of either party to the Agreement.

18. CONSULTANT'S ENDORSEMENT - The Consultant will endorse plans, specifications, reports and documents in accordance with applicable portions of the Business and Professions Code of the State of California.

19. LITIGATION - Other than hereinbefore specified, this Agreement does not require Consultant to assist City in its preparation for arbitration, judicial, or administrative proceedings, nor to testify or otherwise to provide evidence on City's behalf therein

20. APPLICABLE LAW - City and Consultant shall each use reasonable care to comply with laws, codes, ordinances and regulations in force at the time of the performance by each under this agreement, insofar as such laws are applicable to a party's performance.

party's performance.

This agreement shall be interpreted and enforced according to the laws of the State of California. Any provision hereof which is legally deemed void or unenforceable shall not void this entire agreement and all other provisions shall remain in full force and effect. Nothing herein shall be construed to provide for indemnification against damages arising from a party's gross negligence or willful misconduct.

SCOPE OF WORK

Tasks

The Consultant will prepare a Pre-Design Report describing the proposed facilities, complete a permit application to be filed with Monterey County by the City, assist in presentations to the Department of Corrections, and provide assistance with the preparation of a Loan/Grant application to Farmers Home Administration. The following tasks comprise the Scope of Services.

Task 1.0 Wastewater Treatment Plant Expansion with Department of Corrections.Task 1.1 Project Management

Monitor the execution of the project to assist in timely delivery of project materials and maintenance of project budget.

Task 1.2 Meetings

Attend up to three (3) meetings with California Department of Corrections (CDC), the Regional Water Quality Control Board (RWQCB), Monterey County, Kitchell CEM, Michael Brandman & Associates, and Nolte and Associates as directed by the City.

Task 1.3 Treatment Plant Evaluation

Identify methods of expanding treatment plant to handle increased flows from the Soledad Prison. Disposal shall include wastewater reclamation.

Task 1.4 Construction Cost Estimate

Prepare conceptual level construction cost estimate for the preferred alternative for treatment plant expansion identified in Task 1.3

Task 1.5 Monterey County Sewage Treatment Permit Application

Complete permit application on "Sewage Treatment and Reclamation Facilities" for the Monterey county Division of Environmental Health.

Task 2.0 Loan/Grant application to Farmers Home Administration (FmHA)Task 2.1 Project Management

Monitor the execution of the project to assist in timely delivery of project materials and maintenance of project budget

Task 2.2 Construction Cost Estimate

Using the previously developed expansion alternative, prepare conceptual level construction cost estimate and accompanying narrative suitable to meet the requirements for a loan/grant application to FmHA for a wastewater treatment plant expansion.

Task 2.3 General Technical Assistance

Provide general technical assistance in the preparation and submittal of a loan/grant application to FmHA.

Task 2.4 Meetings

Attend one (1) meeting with FmHA.

Compensation

Payment for the engineering services hereinabove set forth shall be made by City to Consultant and shall be considered as full compensation for all personnel, materials, supplies, and equipment used in carrying out the work.

1. Compensation to Consultant shall be on a time and expense reimbursement basis in accordance with Engineer's Schedule of Charges dated January 1, 1992, attached. The Schedule of Charges will be updated near the beginning of each year. The amount of any excise or gross receipts tax that may be imposed shall be added to the compensation as determined above.

2. Payments shall be made monthly by City based on itemized invoices from Consultant which list actual costs and expenses. Such payments shall be for the invoice amount, without retention.

The budgets for the tasks shall be established at \$15,000 for Tasks 1.1 through 1.4, \$5,000 for Task 1.5, and \$5,000 for Task 2.1 - 2.4.

These budgets shall not be exceeded without authorization. The budgets may be increased by amendment hereto if necessary to complete the scope of work. Consultant shall notify City prior to expenditure of 80 percent of the budget if the need for a budget increase is anticipated. Consultant is not obligated to continue providing services hereunder upon expenditure of authorized funding if the increased budget needed to complete the scope of work is not authorized.

Consultant shall submit itemized monthly statement for work performed. City shall make any payment due within thirty (30) days after acceptance of such bill

therefore as accurate. In no event shall one invoice exceed fifty percent (50%) of total compensation.

A delinquent account shall be subject to a charge of one percent (1%) of the invoice amount per month, compounded monthly, and subjects this Agreement and the work herein contemplated to suspension at Engineer's discretion.

Schedule

The schedule for completing Tasks 1.1, 1.2, 2.1, 2.3, and 2.4 are open. Tasks 1.3, 1.4, 1.5 and 2.2 shall be completed prior to May 8, 1992.

City Services

City shall provide access to work sites and all legal services required for the prosecution of the work, including review of construction contract documents, public advertising, and contract letting; serve all notices; hold all hearings; and obtain all required design reviews, permits, lands, rights-of-way, access rights, and utility services and pay all associated fees.

City shall, to the extent reasonable and practicable, assist and cooperate with Consultant in the performance of Consultant's services hereunder. Such assistance and cooperation shall include, but not necessarily be limited to, providing material available from City's files such as maps, record drawings, property surveys' and operation and maintenance information, and rendering assistance in determining the location of existing facilities and improvements which may be affected by the project.

CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the Vice President
and the duly authorized representative of the firm of Kennedy/Dents
Consultants whose address is 3336 Bradshaw Rd, Suite 140
Sacramento, CA, and that neither the above firm I here
represent nor have I:

(a) employed or retained for a commission, percentage, brokerage, continent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement:

(b) agreed, as an express or implied condition for obtaining this contract to employ or retain the services of any firm or person in connection with carrying out the Agreement; or

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

except as here expressly stated (if any):

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

DATE 4/15/92

Edward L. Marlow
SIGNATURE

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
 APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE
 URBAN FORESTRY GRANT PROGRAM UNDER THE
 CALIFORNIA WILDLIFE, COASTAL, AND
 PARK LAND CONSERVATION
 BOND ACT OF 1988

WHEREAS, the people of the State of California have enacted the California Wildlife, Coastal, and Park Land Conservation Act of 1988, which provides funds to the State of California and its political subdivisions for urban forestry programs; and

WHEREAS, the State Department of Forestry and Fire Protection has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing application by local agencies and non-profit organizations under the program; and

WHEREAS, said procedures established by the State Department of Forestry and Fire Protection require the applicant to certify by resolution the approval of application before submission of said application to the State; and

WHEREAS, the applicant will enter into an agreement with the State of California to carry out a tree planting project;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Soledad does hereby:

1. Approves the filing of an application for the Urban Forestry Program under the California Wildlife, Coastal, and Park Land Conservation Bond Act of 1988, state grant assistance for the above project; and
2. Certifies that said applicant has or will have sufficient funds to operate and maintain the project; and
3. Certifies that funds under the jurisdiction of the City Council are available to begin the project.
4. Certifies that said applicant will expend grant funds prior to June 30, 1994.
5. Appoints City Manager as agent of the City of Soledad to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 27th day of April,