

RESOLUTION NO. 2297

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR
ENGINEERING SERVICES WITH KENNEDY/JENKS
CONSULTANTS**

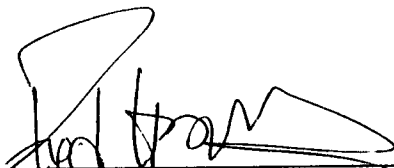
BE IT RESOLVED by the City Council of the City of Soledad that the City Manager is hereby authorized and directed for and on behalf of the Council of the City of Soledad to execute with Kennedy/Jenks Consultants, an agreement for engineering services in the amount of One Hundred and Seventy-Five Thousand Dollars (\$175,000) in the form of a 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 13th day of December, 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

THIS AGREEMENT, made and entered into this 14th day of Dec., 1993 by and between the City of Soledad, Monterey County, California, hereinafter referred to as the "CLIENT," and Kennedy/Jenks Consultants Inc , a California corporation with offices at 3336 Bradshaw Road, Suite 140, Sacramento, California, hereinafter referred to as "ENGINEER"

WITNESSETH

WHEREAS, CLIENT desires to accomplish the engineering planning, design and services needed for construction by public bid of Soledad Wastewater Pipeline, and

WHEREAS, ENGINEER represents itself to be qualified and experienced in planning, designing, and providing construction support services for such facilities to meet the present and projected requirements of CLIENT, and

WHEREAS, CLIENT is desirous of engaging the services of said ENGINEER to perform said services

NOW, THEREFORE, said CLIENT and said ENGINEER, for the consideration and on the terms hereinafter set forth, mutually agree as follows

ARTICLE I - EMPLOYMENT

CLIENT hereby employs ENGINEER to perform professional services herein described, the term of such employment to commence on the date of the execution of this Agreement and to continue until the completion of said services.

ENGINEER hereby accepts said employment and agrees to perform the professional services herein described and to furnish or procure the use of incidental services, equipment, and facilities necessary for the completion of said services

ARTICLE II - SCOPE OF SERVICES

ENGINEER will prepare construction Drawings and Specifications adequate for the solicitation and receipt of construction bids for the facilities, including site grading, and provide Construction Support Services. The work will be performed in two phases. The initial phase will be the final design and preparation of construction drawings and specifications and bid document for receipt of construction bids, and the second phase will be the engineering services during construction with both on-site and off-site activities.

A Final Design, Preparation of Drawings Construction Cost Estimate, and Specifications (First Phase)

1 The project as defined in the Pre-Design Report, was approved, including an agreed upon construction cost estimate, and the ENGINEER will proceed with the

engineering design and preparation of construction drawings and specifications for the facility

a Upon review and approval of the construction drawings and specifications by CLIENT, ENGINEER will furnish the CLIENT 2 bound copies of the specifications and 2 full-sized sets of the drawings

2 Basic Services ENGINEER will design the facilities and prepare drawings and specifications for CLIENT as needed to obtain public bids for construction of the facilities. The facilities shall be as described in the Pre-Design Report dated July 1993. The adopted project provides for the construction of a pipeline from Soledad CTF to the Soledad Wastewater Treatment Plant, including one splitter box. The design work shall consist of the following services:

a ENGINEER will prepare the construction drawings and specifications in sufficient detail to permit adequate construction proposals to be made. The construction drawings and specifications shall describe in technical language the work to be done and the materials, workmanship, finishes, and equipment required. Design changes due to revisions in the adopted project as described above in the Pre-Design Report, changes required in design by CLIENT or financing agencies, development of alternative designs, pre-purchase of equipment, segregation of bid packages, value engineering analysis, if required, or design modifications based on value engineering analysis, and preparation of construction contract change orders are not included in this scope of work. Design services include an energy audit. ENGINEER will provide 8 sets of drawings and specifications for scheduled reviews and approvals.

b ENGINEER will prepare an estimate of the probable cost of construction but does not ensure or warrant that a bid will be received at or below ENGINEER's estimate since bid amounts are subject to many variables beyond the awareness or control of ENGINEER

c ENGINEER will assist CLIENT in obtaining construction proposals, in review and analysis of the proposals, and in the CLIENT's award of the contracts

B. Construction Support Services (Second Phase)

1 ENGINEER will provide services during construction as detailed in Attachment A.

ENGINEER will review and take appropriate action on shop drawings, product data, samples, and other submittals required by the construction contract documents. Such review shall be only for conformance with the design concepts and general compliance with the construction contract documents. It shall not include review of quantities, dimensions, weights or gauges, fabrication processes, construction methods, coordination with the work of other trades, or construction safety precautions, all of which are the sole responsibility of the construction contractor. ENGINEER's review will be conducted with the reasonable promptness consistent with sound professional practice. Review of a specific item shall not indicate acceptance of an assembly of which the item is a component. ENGINEER will not be required to review and will not be responsible for any deviations from the construction contract documents not clearly noted by the construction contractor, nor will ENGINEER be

required to review partial submissions or those for which submissions for correlated items have not been received

ENGINEER will provide observation of construction for the purposes of determining compliance with the technical provisions of the project Specifications. This observation service is not in any way an assumption on the part of CLIENT or ENGINEER of responsibility for methods or appliances used by the construction contractor; for the sufficiency of design or installation of scaffolding, sheeting, or shoring, for the safety of the job, or for compliance by the construction contractor with laws and regulations. Acceptance of construction contractor's designs of sheeting and shoring by ENGINEER on behalf of CLIENT will not include review or approval of designs.

2 CLIENT may provide personnel to assist ENGINEER in construction inspection, will provide legal services.

C Supplemental Services Any additional services over and above those included in the Scope of Services described above shall be undertaken only upon execution of a written amendment to this Agreement describing the additional services and the basis of compensation for such services

ARTICLE III - COMPENSATION

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

A Payment for work done in the First and Second Phase, under Basic Services described in Paragraphs A and B, Article II, shall be as described below

1 Compensation to ENGINEER for the First Phase shall be a lump sum of \$135,464 Compensation to ENGINEER for the Second Phase shall be a lump sum of \$39,536 (See Attachment A)

2 Payments shall be based on percent completion As each payment is due, a statement describing services and listing percent completion shall be submitted to CLIENT Such payments shall be for the invoice amount, without retention The amount of any excise or gross receipts tax may be imposed shall be added to the lump sum fee

B Payment in full of an invoice must be received by ENGINEER within thirty (30) days of the date of such invoice Failure of CLIENT to make full payment of an invoice so that it is received by ENGINEER within thirty (30) days of the date thereof subjects the amount overdue to a delinquent account 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

ARTICLE IV - SCHEDULE

A schedule for carrying out this assignment will be as proposed in a prepared work schedule, and CLIENT will be kept informed as to the progress of work by informal reports

ARTICLE V - SERVICES BY CLIENT

CLIENT 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. Also, CLIENT shall provide all required environmental impact reports and energy assessments unless otherwise specifically provided for herein

CLIENT shall, to the extent reasonable and practicable, assist and cooperate with ENGINEER in the performance of ENGINEER's services hereunder. Such assistance and cooperation shall include, but not necessarily be limited to, providing material available from CLIENT'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

ARTICLE VI - 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 print 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. CLIENT agrees that, without ENGINEER's prior written consent, it will neither republish nor permit any further distribution of the material so delivered by ENGINEER if said work product has been either edited or modified by other than ENGINEER.

ARTICLE VII - TERMINATION OF WORK

CLIENT, by notifying ENGINEER in writing, may terminate all or part of the work covered by this Agreement. Unless such a termination occurs at the completion of a specific phase of the work, 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. In the event of any termination by CLIENT, ENGINEER shall be compensated for all costs incurred to the date of termination, including charges for any commitments outstanding at the time of termination (such as for termination of subconsultants, rental agreements, orders for printing, etc.) and any costs that may be incurred in assembling work to properly close out the job.

All charges due and payable under this Article shall be paid by CLIENT within thirty (30) days following submission of a final statement by ENGINEER.

ARTICLE VIII - OWNERSHIP OF DOCUMENTS

All drawings, specifications, and other work product of ENGINEER for this project, except working notes and internal documents, will become the property of CLIENT. Reuse of any of these Drawings, Specifications, or other work products of ENGINEER by CLIENT for extensions of this project or for any project other than the specific project covered in this Agreement, or modification and use by CLIENT of any documents connected with this Agreement, without the written permission of ENGINEER shall be at CLIENT's risk, and CLIENT agrees to defend, indemnify, and hold harmless ENGINEER from all claims, damages, and expenses including attorneys' fees arising out of such unauthorized reuse of ENGINEER's work product by CLIENT or by others acting through CLIENT. ENGINEER shall be entitled to a reproducible copy of all material furnished to CLIENT, the costs of which shall be compensated for under this Agreement. Any uncompleted work of ENGINEER delivered to CLIENT due to cancellation of all or portions of the work or contract termination which are utilized by CLIENT in any way shall have ENGINEER's name removed, and CLIENT agrees to defend, indemnify, and hold harmless ENGINEER from all claims, damages, and expenses including attorney's fees arising from any use of uncompleted work.

ARTICLE IX - PROFESSIONAL SERVICES

ENGINEER'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 CLIENT or ENGINEER a beneficiary of it.

ENGINEER in providing services hereunder does not in any way assume responsibility for the methods or appliances used by the construction contractor; for the sufficiency of design or installation of scaffolding, sheeting, or shoring, for safety of the job, or for compliance by the construction contractor with laws and regulations.

ARTICLE X - INSURANCE

A ENGINEER shall maintain worker's compensation insurance as required by applicable state statutes.

B ENGINEER shall maintain commercial general liability and automobile liability insurance with limits of not less than \$1 million per occurrence.

C ENGINEER shall maintain professional liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from ENGINEER's operations under this Agreement, whether such operations be by ENGINEER or by its employees, subcontractors, or consultants. The amount of this insurance shall be not less than \$1,000,000 on a claims-made, annual aggregate basis.

D ENGINEER may be required to provide CLIENT with certificates of insurance evidencing the aforesaid coverages

E CLIENT agrees to include in its contracts with construction contractors provisions requiring that ENGINEER, in addition to CLIENT, be indemnified against loss occurring during the performance of the contract and be named as an additional insured on liability insurance policies required to be maintained by construction contractor

ARTICLE XI - INDEMNIFICATION

ENGINEER agrees to indemnify CLIENT, its officers, employees, and agents against and to hold and save them harmless from any and all claims, damages, losses, or liabilities arising out of the negligent acts, errors, or omissions of ENGINEER in the performance of services under this Agreement to the extent of ENGINEER's negligence compared to the total negligence of all persons, firms, or corporations which results in said damage to CLIENT

CLIENT agrees that ENGINEER's liability to CLIENT for breach of contract or breach of warranty arising out of ENGINEER's performance of professional services under this Agreement shall be limited to direct damages and shall not exceed the amount of the fee paid by CLIENT to ENGINEER for its professional services hereunder and that ENGINEER's liability to CLIENT and to all third parties for damages arising out of any claimed negligence in ENGINEER's performance of professional services under this agreement shall not in total exceed the sum of \$50,000 00 or the fee paid by CLIENT to ENGINEER for its services hereunder, whichever amount is greater

ARTICLE XII - CLAIMS AND DAMAGES

CLIENT recognizes the inherent risks connected with construction. For its part, ENGINEER will perform in accordance with generally accepted standards of the profession. CLIENT shall include in its contracts with construction contractors who may perform work in connection with any design, report, or study prepared by ENGINEER, specific provisions limiting the liability of CLIENT and ENGINEER to the contractor for damages due to the inadequacy of the contractor's bid on account of design defects, errors, omissions, or professional negligence of CLIENT or ENGINEER to five (5%) percent of the contractor's bid amount. Nothing herein contained is intended to impose upon ENGINEER any liability that would not exist in the absence of this paragraph.

In no event shall ENGINEER or its subcontractors of any tier be liable in contract, tort, strict liability, warranty, or otherwise, for any special, indirect, incidental, or consequential damages.

ARTICLE XIII - LITIGATION

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

ARTICLE XIV - FORCE MAJEURE

Any delay or default in the performance of any obligation of ENGINEER under this agreement resulting from a cause beyond ENGINEER's reasonable control shall not be deemed a breach of this agreement. The occurrence of any such event shall suspend the obligations of ENGINEER as long as performance is delayed or prevented thereby, and the fees due hereunder shall be equitably adjusted.

ARTICLE XV - APPLICABLE LAW

CLIENT and ENGINEER 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.

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.

IN WITNESS WHEREOF, CLIENT has caused this Agreement to be executed, and ENGINEER has caused this Agreement to be executed, all as of the day and year first above written

KENNEDY/JENKS CONSULTANTS, INC

CITY OF SOLEDAD

By Ed Marlow

Fred Ledesma

Title Vice President

[Signature]

Mayor of Soledad

Date 12/13/93

12/14/93

PROJECT: CSP-SOLEDAD II
CONSULTANT: KENNEDYJENKS CONSULTANTS

KJ FEE PROPOSAL
DATE: 9/22/93 10:08 AM

DESIGN CONSULTANT - COSTS
KENNEDYJENKS FEE PROPOSAL

BID PACKAGE 2A - pipeline

FEE ESTIMATE SUMMARY

<u>TASKS</u>	<u>TOTAL ESTIMATED FEE</u>
DESIGN DEVELOPMENT	\$135,464
CONSTRUCTION DOCUMENTS	
CONSTRUCTION SUPPORT	
TOTAL	\$135,464

PROJECT CSP-SOLEIDAD II
CONSULTANT KENNEDY/JENKS CONSULTANTS

KJ FEE PROPOSAL
DATE: 9/22/93 10:08 AM

DESIGN CONSULTANT - COSTS
KENNEDY/JENKS FEE PROPOSAL

BID PACKAGE 2A - pipeline

TOTAL PROJECT COSTS											TOTAL SHEETS		
DRAWINGS	CH2MHILL					KJ	KJ	KJ	KJ	KJ	Hours	Rate	Cost
	PM	General	Civil	Mech.	Elect.	General	CIVIL	STRUCT	MECH.	ELECT.			
Sheets	0	0	0	0	0	3	13	1	1	0			
CAD Technicians													
CH2M HILL	0	0	0	0	0	0	0	0	0	0	\$71.00	\$0	
MTH	0	0	0	0	0	0	0	0	0	0	\$48.00	\$0	
K/J	0	0	0	0	0	25	247	18	18	0	\$54.00	\$16,632	
Tsuboi	0	0	0	0	0	0	0	0	0	0	\$41.00	\$0	
Total CAD Hrs	0	0	0	0	0	25	247	18	18	0			\$16,632
CAD hrs/sheet	0	0	0	0	0	8	19	18	18	#DIV/0!			
DESIGN TASKS													
Senior Engineer	0	0	0	0	0	25	250	82	21	0	\$98.00	\$37,044	
Asst. Eng.	0	0	0	0	0	20	175	14	14	0	\$85.00	\$18,955	
Asst. Eng.	0	0	0	0	0	10	98	7	7	0	\$87.00	\$8,174	
Consulting	0	0	0	0	0	8	58	4	4	0	\$98.00	\$8,860	
Project Eng.	0	0	0	0	0	49	33	4	5	0	\$122.00	\$11,102	
	0	0	0	0	0	110	612	111	51	0			\$82,135
MISC. TASKS													
Project Management	0	none	none	none	none	0	0	0	0	0	\$122.00	\$0	
Engineering Calcs.	0	0	0	0	0	0	0	0	0	0	\$98.00	\$0	
Specifications	0	0	0	0	0	0	0	0	0	0	\$92.00	\$0	
Specifications MTH	0	0	0	0	0	0	0	0	0	0	\$92.00	\$0	
Specifications K/J	0	0	0	0	0	80	0	0	0	0	\$98.00	\$7,840	
Estimating	0	0	0	0	0	0	0	0	0	0	\$86.00	\$0	
Estimating MTH	0	0	0	0	0	0	0	0	0	0	\$86.00	\$0	
Estimating K/J	0	0	0	0	0	2	24	13	13	0	\$85.00	\$4,420	
Narrative Descr.	0	0	0	0	0	0	0	0	0	0	\$92.00	\$0	
Narrative Descr. MTH	0	0	0	0	0	0	0	0	0	0	\$88.00	\$0	
Narrative Descr. K/J	0	0	0	0	0	0	0	0	0	0	\$88.00	\$0	
Dedicated Q.C.	0	0	0	0	0	0	0	0	0	0	\$101.00	\$0	
Dedicated Q.C. MTH	0	0	0	0	0	0	0	0	0	0	\$79.00	\$0	
Easements	0	0	0	0	0	40	0	0	0	0	\$98.00	\$3,920	
Clerical	0	0	0	0	0	0	0	0	0	0	\$41.00	\$0	
Clerical MTH	0	0	0	0	0	0	0	0	0	0	\$37.00	\$0	
Clerical K/J	0	0	0	0	0	0	0	0	0	0	\$48.00	\$0	
Site Visits ()	0	0	0	0	0	25	0	0	0	0	\$98.00	\$2,450	
Coord. w/Util. Co.	0	0	0	0	0	50	0	0	0	0	\$98.00	\$4,900	
Survey Adj-dftg	0	0	0	0	0	18	0	0	0	0	\$54.00	\$864	
Survey Adj-mgmt	0	0	0	0	0	8	0	0	0	0	\$122.00	\$976	
NPDES Permit	0	0	0	0	0	58	0	0	0	0	\$98.00	\$5,688	
Acad conf-dftg	0	0	0	0	0	12	0	0	0	0	\$54.00	\$648	
Acad conf-mgmt	0	0	0	0	0	4	0	0	0	0	\$122.00	\$488	
O&M	0	0	0	0	0	20	0	0	0	0	\$98.00	\$1,960	
	0	0	0	0	0	313	24	13	13	0			\$33,954
TOTAL CONSULT		\$0	\$0	\$0	\$0	\$42,440	\$70,833	\$12,852	\$8,798	\$0			\$132,721
TOTAL PM													
TOTAL LABOR (\$)													\$132,721
TOTAL:													\$132,721

21

EXPENSES						TRAVEL LABOR/REMB.				
	<u>Orig.</u>	<u>Sets</u>	<u>Copies</u>	<u>Rate</u>	<u>Cost</u>	<u>Mths</u>	<u>Persons/</u> <u>Units</u>	<u>Rate</u>	<u>Cost</u>	
Bluelines	18	18	288	\$1.00	\$288	Labor: PM	0	0	\$0.00	\$0
Sepias	18	1	18	\$5.00	\$90	Labor: Consult.	0	0	\$0.00	\$0
Coord/Check Set	0	0	0	\$1.00	\$0	PM 10% Mark Up	0	0	\$0.00	\$0
Specifications	200	18	3,200	\$0.08	\$192	Airfare	0	0	\$350.00	\$0
Computer Disks	0	0	0	\$50.00	\$0	Parking/Transp.	0	0	\$10.00	\$0
Shipping	0	0	0	\$100.00	\$0	Car Rental	12	0	\$50.00	\$600
Calculations	0	0	0	\$0.00	\$0	Hotel & Meals	12	0	\$85.00	\$1,020
Cost Estimate	0	0	0	\$0.00	\$0					
Systems Narrative	1	0	216	\$0.08	\$13					
Velum Repro.	18	2	36	\$10.00	\$360					
Mylar Repro.	18	1	18	\$10.00	\$180					
				\$5.00	\$0					
Subtotal					\$1,123	Subtotal				\$1,620
Expenses Subtotal										\$2,743
TOTAL										\$135,464

PROJECT CSP-SOLEDAD II
CONSULTANT KENNEDY/JENKS CONSULTANTS

KCEM STATE'S ESTIMATE
DATE: 9/2/93 9:13 AM

DESIGN CONSULTANT - COSTS
KCEM STATE'S ESTIMATE SUMMARY

PACKAGE 2A - WASTEWATER FORCE MAIN

PHASE (CONSTRUCTION SUPPORT)

TASKS	CH2MHILL					K/J	K/J	K/J	K/J	K/J	Hours	Rate	Cost
	PM	General	Civil	Mech.	Elect.	General	CIVIL	STRUCT	MECH.	ELECT.			
Project Management	0	none	none	none	none	40	none	none	none	none	40	\$122.00	\$4,880
Submittal Review	0	0	0	0	0	0	0	0	0	0	0	\$92.00	\$0
Subm. Review MTH	0	0	0	0	0	0	0	0	0	0	0	\$0.00	\$0
Subm. Review K/J	0	0	0	0	0	0	75	0	0	0	75	\$98.00	\$7,350
Field Inquiries	0	0	0	0	0	0	0	0	0	0	0	\$92.00	\$0
Field Inq. MTH	0	0	0	0	0	0	0	0	0	0	0	\$0.00	\$0
Field Inq. K/J	0	0	0	0	0	0	95	0	0	0	95	\$98.00	\$9,310
Change Orders	0	0	0	0	0	0	45	0	0	0	45	\$98.00	\$4,410
OP Manual K/J	0	0	0	0	0	0	12	0	0	0	12	\$0.00	\$0
Field Inq./Insp.	0	0	0	0	0	0	76	0	0	0	76	\$46.00	\$3,496
	0	0	0	0	0	0	0	0	0	0	0	\$85.00	\$0
	0	0	0	0	0	40	303	0	0	0	343		\$29,446
TOTAL CONSULT		\$0	\$0	\$0	\$0	\$4,880	\$24,566	\$0	\$0	\$0			\$29,446
TOTAL PM													\$0
TOTAL - LABOR (\$)													\$29,446
10% MARKUP ON SUBCONSULTANT TASKS													\$0
TOTAL													\$29,446

EXPENSES - CONSTRUCTION SUPPORT

FIELD VISIT - Worksheet				Per Trip Cost	No. of Trips	FIELD VISIT TOTAL COST
	Persons/ Units	Rate				
Hotel & Meals	1	\$100.00		\$100		
Airfare	0	\$0.00		\$0		
Parking/Transp.	600	\$0.35		\$210		
Labor: Senior Engr.	14	\$98.00		\$1,372		
Subtotal - Field Visits				\$1,682	5	\$8,410

EXPENSE ITEMS	Orig.	Sets	Copies	Rate	Cost
Blueprints	17	40	680	\$1.00	\$680
Photo Copies	100	100	10,000	\$0.10	\$1,000
Printing	0	0	0	\$7.00	\$0
OP Manual	0	0	0	\$0.00	\$0
	0	0	0	\$300.00	\$0
Subtotal - Expense Items				\$1,680	\$1,680
TOTAL EXPENSES					\$10,090
TOTAL CONSTRUCTION SUPPORT					\$39,536

932531.00
BID PACKAGE 2A

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. "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.

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. ARBITRATION - Unless otherwise mutually agreeable, all claims, counterclaims, disputes and other matters in question between the parties arising out of or relating to the Agreement or the breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect this requirement to arbitration and any agreement or consent to arbitrate entered into the accordance herewith as hereinafter provided, shall be specifically enforceable under the prevailing law of any court having jurisdiction. Notice of demand for arbitration must be filed in writing with the other party to the Agreement and with

the American Arbitration Association. The demand must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may the demand for arbitration be made after the time when institution of legal or equitable proceedings based on such claim in question would be barred by the applicable statute of limitations.

5. 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. The Consultant will comply with the regulations of the Department of transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21).

6. 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.

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 sixty (60) days after receipt of such bill therefore. Payment shall not exceed fifty (50%) of total compensation as set forth in the Scope of Work until receipt and approval of preliminary plans by the City. If the Agreement is a cost reimbursement type, e.g., cost-plus-fixed-fee, costs shall be in accordance with the cost price proposal attached hereto as Exhibit A and hereby made a part of this Agreement. Cost principles and procedures of part 1-15 of the Federal Procurement Regulations shall be used to determine the allowability of individual items of cost.

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.

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 insure to the continent liabilities, if any, of the City and the officers, agents, and employees of the City 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 Director of Public Works. 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.

CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the Vice President and the duly authorized representative of the firm of Kennedy Jenks Consultants whose address is 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: 12/13/93

SIGNATURE: Edward L. Marlow

ADDENDUM TO AGREEMENT FOR ENGINEERING SERVICE
WITH KENNEDY/JENKS CONSULTANTS

The following deletions, additions and modifications are made to the Agreement for Engineering Services between the City of Soledad and Kennedy/Jenks Consultants.

1. City of Soledad Terms and Conditions For Professional Consulting Services.

- (a) Section 9 is deleted in its entirety.
- (b) Add provision 19 as follows:

"19. To the extent that any other provision of the City of Soledad 'Terms and Conditions For Professional Consulting Services' conflict with the terms and conditions set forth in the written agreement prepared by Kennedy/Jenks, attached hereto, the terms of Soledad's 'Terms and Conditions' shall prevail in the absence of the City's written agreement."

2. Written Agreement Prepared by Kennedy/Jenks, identified as "WPE62 932525.00".

- (a) Pg. 5, Section B.2., make the following addition:

"City is not required to provide legal services for any matter concerning the alleged negligence, gross negligence or willful misconduct of Kennedy/Jenks or any of its employees, officers, or agents."

- (b) Pg. 6, Section B.; first sentence in this section is deleted in its entirety. The new Section B. shall read as follows:

"Payment in full of an invoice must be received by ENGINEER within thirty (30) days of receipt by CLIENT of reimbursement funds from the California Department of Corrections."

- (c) Pg. 11, Section D. is modified as follows:

"ENGINEER is required to provide client with certificates of insurance which clearly designate the CITY OF SOLEDAD, its officers, officials, employees and volunteers as covered insureds."

- (d) Language of Article XI - Indemnification, is deleted in its entirety. Replace with the following language:

"Engineer agrees to indemnify CLIENT, its officers, employees, and agents against and to hold and save them harmless from any and all claims, damages, losses, or liabilities arising out of the negligent acts, errors, or omissions of ENGINEER in the performance of services under this Agreement."

- (e) Pg. 12, Article XII - Claims and Damages; third sentence in first paragraph is modified as follows:

"CLIENT shall attempt to include in its contracts with construction contractors who may perform work in connection with any design, report, or study prepared by engineer, specific provisions limiting the liability of CLIENT and ENGINEER to the contractor for damages due to the inadequacy of the contractor's bid on account of design defects, errors, omissions, or professional negligence of CLIENT or ENGINEER to five percent (5%) of the contractor's bid amount."

- (f) Pg. 12, Article III - Litigation; this section is deleted in its entirety. New language under this heading is added as follows:

"ENGINEER shall assist CLIENT in its preparation for arbitration or judicial or administrative proceedings, including the provision of testimony or other evidence, upon written request from CLIENT. Compensation for all such service shall be negotiated by CLIENT and ENGINEER."

- (g) Pg. 13, Force Majeure; wording of this section is changed as follows:

"Any delay or default in the performance of any obligation of ENGINEER or CLIENT under this agreement resulting from a cause beyond ENGINEER's or CLIENT's reasonable control shall not be deemed a breach of this agreement. The occurrence of any such event shall suspend the obligations of ENGINEER and CITY as long as performance is delayed or prevented thereby, and the fees due hereunder shall be equitably adjusted."

- (h) Pg. 13 Article XV - Applicable Law; last sentence in second paragraph is deleted in its entirety. New sentence is added as follows:

"Nothing herein shall be construed as CLIENT's obligation to provide indemnification for damages arising from the gross negligence or willful misconduct of persons not in ENGINEER's employ or service."


Kennedy/Jenks

Date: 12/13/93


Russ Carlsen
Interim City Manager

Date: 12/14/93