

RESOLUTION NO 2514

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
 AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR
 BUILDING INSPECTION SERVICES BY AND
 BETWEEN THE CITY OF SOLEDAD
 AND WILDAN COMPANY

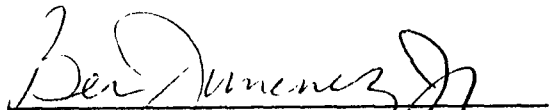
BE IT RESOLVED by the City Council of the City of Soledad that the City Manager is hereby, authorized, for and on behalf of the City of Soledad to execute an agreement for Standby Building Inspection Services by and between the City of Soledad and the Wildan Company of Sacramento, in the form of the 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 19th day of June 1996, by the following vote:

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

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 19th day of June, 19 96 by and between City of Soledad, hereinafter referred to as CLIENT, and Willdan Associates, a California corporation, hereinafter referred to as WILLDAN, whose principal place of business is located at 888 South West Street, Suite 400, Anaheim, California 92802

WHEREAS, CLIENT desires to employ WILLDAN to furnish professional services in connection with the project described as Building and Safety Services

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows

SECTION I - BASIC SERVICES

WILLDAN shall provide the basic services described in detail in Exhibit "A," Description of Basic Services, attached hereto and made a part hereof

SECTION II - ADDITIONAL SERVICES

If authorized, WILLDAN shall furnish additional services which are in addition to the basic services. To the extent that the additional services have been identified at the time of executing this Agreement, they are itemized in Exhibit "A" and will be paid for by CLIENT as indicated in Section III hereof. As further additional services are requested by CLIENT, this Agreement may be modified and subject to mutual consent by execution of an addendum by authorized representatives of both parties, setting forth the additional scope of services to be performed, the performance time schedule, and the compensation for such services

SECTION III - COMPENSATION

WILLDAN shall be compensated for basic services rendered under Section I, as more particularly described in Exhibit "A," in accordance with the terms and conditions indicated in Exhibit "B," Compensation, and WILLDAN shall be compensated for additional services rendered under Section II as more particularly described in a fully approved and executed addendum to this Agreement. If no addendum is executed, then WILLDAN shall be compensated at its then prevailing hourly rates for such additional services

WILLDAN may submit monthly statements for basic and additional services rendered. It is intended that payments to WILLDAN will be made by CLIENT Within 10 days of invoice. All invoices not paid within 10 days shall bear interest at the rate of 1 1/2 percent per month or the then legal rate allowed

SECTION IV - INDEMNIFICATION, HAZARDOUS MATERIALS

A. General

WILLDAN shall defend, indemnify, and hold harmless CLIENT, its officers, agents, and employees, from any and all claims, demands, damages, costs, including attorney's fees, expenses, or liability arising out of this Agreement, or occasioned by the performance or attempted performance of the provisions hereof. This paragraph shall not be construed to exempt CLIENT, its officers, agents, and employees from liability for its own willful injury or damage, or other violation of the law, whether willful or negligent.

B. Hazardous Materials

CLIENT acknowledges that WILLDAN's scope of services for this project do not include any work related in any way to asbestos and/or hazardous waste. Should WILLDAN or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect WILLDAN's work, WILLDAN may, at its option, terminate work on the project until such time as CLIENT retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

CLIENT hereby acknowledges that WILLDAN has no professional liability insurance for claims arising out of the performance of or failure to perform professional services, including, but not limited to the preparation of reports, designs, drawings and specifications, related to the investigation, detection, abatement, replacement, use or specification, or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous waste materials. Accordingly, the CLIENT hereby agrees to bring no claim for negligence, breach of contract, indemnity or otherwise against WILLDAN, its principals, employees, and agents if such claim, in any way, would involve WILLDAN's services for the investigation, detection, abatement, replacement, use or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous waste materials. CLIENT further agrees to defend, indemnify, and hold harmless WILLDAN, its officers, directors, principals, employees, agents, and subconsultants from any asbestos and/or hazardous waste material related claims and suits that may be brought by third parties, and any resulting liability, arising from the services provided by WILLDAN pursuant to this Agreement.

SECTION V - INSURANCE REQUIRED

Without in any way limiting WILLDAN's liability pursuant to the indemnification described above, WILLDAN shall maintain, during the term of this contract, the following insurance

<u>Coverage</u>	<u>Minimum Limits</u>
<u>General Liability</u>	
Comprehensive General Liability, including Premises and Operations Contractual Liability Personal-Injury Liability Independent Contractors Liability (if applicable)	\$500,000 Combined Single Limit, per occurrence, and aggregate
<u>Automobile Liability</u>	
Comprehensive Automobile Liability, (including, owned, non-owned and hired autos)	\$500,000 Combined Single Limit, per occurrence, no aggregate
<u>Workers' Compensation and Employer's Liability</u>	
Workers' Compensation Insurance Employer's Liability	Statutory \$1,000,000
<u>Professional Liability</u>	
Professional Liability Insurance	\$500,000 per occurrence and annual aggregate

Except with respect to professional liability insurance, CLIENT, its officers, officials, employees, and agents are to be covered as insured as respects liability arising out of activities performed by or on behalf of WILLDAN, or automobiles owned, leased, hired, or borrowed by WILLDAN. The coverage shall contain no special limitations on the scope of protection afforded to the CLIENT, its officers, officials, employees, and agents. WILLDAN's insurance coverage shall be primary insurance as respects CLIENTS, its officers, officials, employees, and agents. Any failure to comply with reporting provisions of the policies shall not effect coverage provided to the CLIENT, its officers, officials, employees, and agents.

SECTION VI - INDEPENDENT CONTRACTOR STATUS

WILLDAN shall be an independent contractor and shall have responsibility for and control over the details and means of providing the services under this Agreement.

SECTION VII - OWNERSHIP AND MAINTENANCE OF DOCUMENTS

All documents including without limitation, reports, plans, specifications, field data, field notes, laboratory test data, calculations estimates, furnished by WILLDAN pursuant to this Agreement, regardless of media (i.e. paper, electronic, magnetic, optical, mylar, etc.), are instruments of WILLDAN's services in respect to this project and not products. All such documents shall remain the property of WILLDAN, provided, however, a copy of the final plans and specifications shall be made available to CLIENT upon request. These documents are not intended nor represented to be suitable for reuse by CLIENT or any others on extensions of this project or on any other project. These documents shall not be changed or reused without the prior written consent of WILLDAN. Any reuse without specific written verification and adoption by WILLDAN for the specific purposes intended will be at user's sole risk. CLIENT agrees to save, keep, and hold harmless WILLDAN from all damages, costs, or expenses in law and equity including costs of suit and attorneys fees resulting from such unauthorized reuse. CLIENT further agrees to compensate WILLDAN for any time spent or expenses incurred by WILLDAN in defense of any such claim, in accordance with WILLDAN's prevailing fee schedule.

CLIENT acknowledges that its right to utilize the services and instruments of services of WILLDAN will continue only so long as CLIENT is not in default of the terms and conditions of this Agreement and CLIENT has performed all obligations under this Agreement. CLIENT further acknowledges that WILLDAN has the unrestricted right to use the services provided pursuant to this Agreement, as well as all instruments of service provide pursuant to this Agreement.

CLIENT agrees not to use or permit any other person to use any instruments of service prepared by WILLDAN, which are not final and which are not signed, and stamped or sealed by WILLDAN. CLIENT agrees to be liable for any such use of nonfinal instruments of service not signed, stamped or sealed by WILLDAN and waives liability against WILLDAN for their use.

WILLDAN's records, documents, calculations, test information, and all other instruments of service shall be kept on file in legible form for a period of not less than 2 years after completion of the services covered in this Agreement.

SECTION VIII - SUSPENSION OF WORK

CLIENT may, at any time, by a (15) fifteen-day written notice suspend further performance by WILLDAN. All suspensions shall extend the time schedule for

performance in a mutually satisfactory manner and WILLDAN shall be paid for services performed and reimbursable expenses incurred prior to the suspension date

SECTION IX - TERMINATION

Either party may terminate this Agreement at any time by giving written (15) fifteen-day notice to the other party of such termination. If this Agreement is terminated as provided herein, WILLDAN will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of WILLDAN covered by this Agreement, less payments of compensation previously made.

SECTION X - COMPLIANCE WITH LAW

Each party hereto will use reasonable care to comply with applicable laws in effect at the time the services are performed hereunder which to the best of their knowledge, information and belief apply to their respective obligations under this Agreement.

SECTION XI - SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the parties, but it shall not be assigned by either party without written consent of the other party.

SECTION XII - ATTORNEYS FEES

In the event that any judgment is entered in any action upon this Agreement, the party hereto against whom such judgment is rendered agrees to pay the amount equal to the reasonable attorneys fees of the prevailing party in such action and that such amount may be added to and made a part of such judgment.

SECTION XIII - ALTERNATIVE DISPUTE RESOLUTION

If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

(a) A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

(b) If, within 30 days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "neutral"), seeking assistance in such regard if they have been unable to agree upon such appointment within 40 days from the initial meeting. The fees of the neutral shall be shared equally by the parties.

(c) In consultation with the neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR") by which they will attempt to resolve the dispute, and a time and place for the ADR to be held, with the neutral making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than 60 days after selection of the neutral) if the parties have been unable to agree on any of such matters within 20 days after initial consultation with the neutral

(d) The parties agree to participate in good faith in the ADR to its conclusion as designated by the neutral. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration or a private adjudicator, or either party may seek an adjudicated resolution through the appropriate court.

SECTION XIV - COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, WILLDAN agrees as follows

A. Equal Employment Opportunity

In connection with the execution of this Agreement, WILLDAN shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following employment, promotion, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship

B. Nondiscrimination Civil Rights Act of 1964

WILLDAN will comply with all federal regulations relative to nondiscrimination in federally-assisted programs

C. Solicitations for Subcontractors Including Procurement of Materials and Equipment

In all solicitation, either by competitive bidding or negotiations, made by WILLDAN for work to be performed under a subcontract including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by WILLDAN of WILLDAN's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, religion, color, sex or national origin

SECTION XV - RECORDS

_____ Records of WILLDAN's direct labor costs, payroll costs, and reimbursable expenses pertaining to the project covered by this Agreement will be kept on a generally recognized

accounting basis and made available during normal business hours upon reasonable notice

WILLDAN's records and design calculations will be available for examination and audit if and as required

SECTION XVI - INSOLVENCY OF CLIENT

WILLDAN shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this Agreement if CLIENT files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against CLIENT in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services made pursuant to the provisions of this paragraph shall continue until such time as this Agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order or judgment issued by the Bankruptcy Court.

SECTION XVII - MISCELLANEOUS PROVISIONS

This Agreement is subject to the following special provisions

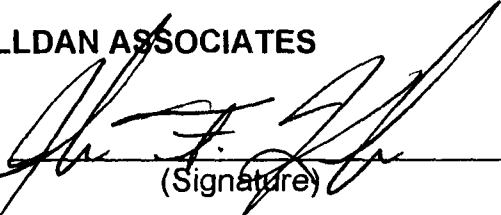
- A. The titles used in this Agreement are for general reference only and are not a part of the Agreement.
- B. This Agreement shall be interpreted as though prepared by both parties
- C. Any provision of this Agreement held to violate any law shall be deemed void, and all remaining provisions shall continue in full force and effect.
- D. This Agreement shall be interpreted under the laws of the State of California
- E. This Agreement comprises a final and complete repository of the understandings between the parties and supersedes all prior or contemporary communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement.
- F. Any notices given pursuant to this Agreement shall be effective on the third business day after posting by first class mail, postage prepaid, to the address appearing immediately after the signatures below
- G. CLIENT agrees that in accordance with generally accepted construction practices, construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property; that this requirement shall be made to apply continuously and not be limited to normal working hours, and CLIENT further agrees

to defend, indemnify and hold WILLDAN harmless from any and all liability, real or alleged, in connection with the performance of work on this project, excepting liability arising from the sole negligence of WILLDAN

- H WILLDAN shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals, and building permits
- I WILLDAN's waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any subsequent breach of any other term, condition or covenant.
- J WILLDAN makes no representations concerning soils conditions unless specifically included in writing in this Agreement, and WILLDAN is not responsible for any liability that may arise out of the making or failure to make soil surveys, or subsurface soil tests, or general soil testing
- K CLIENT acknowledges that WILLDAN is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions above stated, the day and year first above written

WILLDAN ASSOCIATES

By 
(Signature)

Name John F. Knipe, P.E
(Typed)

Title Vice President

Address 374 Poli Street, Ste..101
Ventura, CA 93001

Telephone (805) 653-6597

CLIENT

By 
(Signature)

Name Belinda B. Espinosa
(Typed)

Title City Manager

Address P. O. Box 156/248 Main Street
Soledad, CA 93960

Telephone 408/678-3963

APPROVED AS TO FORM

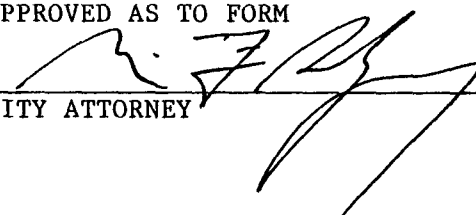

CITY ATTORNEY

EXHIBIT "A"**CITY OF SOLEDAD****BUILDING AND SAFETY SERVICES****INSPECTION**

Willdan Associates will provide a combination building inspector to provide inspection services on an as-needed basis. The Willdan inspector will act as designee for the City building official per Section 104.2 of the City building code and will enforce the City's building laws.

OTHER SERVICES

Willdan Associates may provide other building and safety services, such as plan review, permit issuance, and code enforcement as requested by the CLIENT.

EXHIBIT "B"

CITY OF SOLEDAD

BUILDING AND SAFETY SERVICES

COMPENSATION

Building Inspection Services - \$55 per hour - Minimum two (2) hours per day

Other Services - At current hourly rates or an agreed upon lump-sum not-to-exceed cost.