

RESOLUTION NO. 4068

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH
PACIFIC MUNICIPAL CONSULTANTS (PMC) FOR CONSULTING SERVICES TO
CONDUCT A MARKET FEASIBILITY STUDY FOR THE PROPOSED MULTI-PLEX
CINEMA**

WHEREAS, the City has a need to contract for consulting services relating, but not limited to, the preparation of a market feasibility study for the proposed multiplex cinema, and

WHEREAS, a Request for Proposal (RFP) for Consulting Services to prepare a market feasibility study for the proposed multiplex cinema was published and mailed to seven (7) consulting firms; and

WHEREAS, responses from two (2) consulting firms were received from Economic Research Associates (ERA) and Pacific Municipal Consultants (PMC); and

WHEREAS, after interviewing each consulting firm and giving due consideration to the proposals, the experience and qualifications of the consultant firms and available references, Staff is recommending that a two year agreement for consulting services be awarded to Pacific Municipal Consultants for a contract amount not to exceed \$20,000, and

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Soledad that the City Manager is hereby authorized to execute a standard professional services contract, attached as "Exhibit A" with Pacific Municipal Consultants (PMC) for Consulting Services, subject to minor modification and subsequent approval by the City Attorney. Funding for contractual services shall be drawn from the City's CDBG – Economic Development Planning and Technical Assistance Grant; Contract No. 06-EDBG-2582.

PASSED AND ADOPTED by the City Council of the City of Soledad at a special meeting duly held on the 15th day of August, 2007, by the following vote:

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

NOES, Councilmembers: None

ABSTAIN, Councilmembers: None

ABSENT, Councilmembers: None



RICHARD Y. ORTIZ, Mayor

ATTEST:



NOELIA F. CHAPA, City Clerk

**STANDARD
CONTRACTUAL SERVICES AGREEMENT**

THIS AGREEMENT is made at Soledad, California, as of August 15 2007, by and between the CITY OF SOLEDAD, a municipal corporation ("City"), and Pacific Municipal Consultants, dba PMC ("Consultant"), who agree as follows:

1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in Exhibit A. Consultant shall provide said services at the time, place and in the manner specified in Exhibit A.
2. PAYMENT. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement.
3. FACILITIES AND EQUIPMENT. Except as set forth in Exhibit C, Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement. City shall furnish to Consultant only the facilities and equipment listed in Exhibit C according to the terms and conditions set forth in Exhibit C.
4. GENERAL PROVISIONS. The general provisions set forth in Exhibit D are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control insofar as it is inconsistent with the general provisions.
5. EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

Exhibit "A"

6. CONTRACT ADMINISTRATION. This Agreement shall be administered by Soledad City Manager, Noelia F. Chapa ("Administrator"). All correspondence shall be directed to or through the Administrator or her designee.

7. NOTICES. Any written notice to Consultant shall be sent to:

Philip O. Carter
PMC
2729 Prospect Park Drive, Suite 220
Rancho Cordova, CA 95670

Any written notice to City shall be sent to:

City of Soledad
Noelia F. Chapa, City Manager
248 Main Street
Soledad, CA 93960

Executed as of the day first above stated:

CITY OF SOLEDAD, a municipal corporation

By Noelia F. Chapa
Noelia F. Chapa, City Manager

Attest: Noelia F. Chapa
City Clerk

By Philip O. Carter
"Consultant"

Approved as to form:

Michael F. Rodriguez
Michael F. Rodriguez, City Attorney

**EXHIBIT A
SCOPE OF SERVICES**

(see attached)

- TASK 1: CONDUCT SURVEYS AND INTERVIEWS IN THE SOUTH SALINAS VALLEY – CITIES OF GONZALES, SOLEDAD, GREENFIELD AND KING CITY**
- TASK 2: MAKE CONCLUSIONS AND RECOMMENDATIONS ON CONSTRUCTING A MULTIPLEX CINEMA IN SOLEDAD**
- TASK 3: PROVIDE RECENT TRENDS**
- TASK 4: DEFINE TRADE AREA OF TARGET MARKET**
- TASK 5: SURVEY AREA MARKET CONDITIONS (POPULATION GROWTH, ETC.); FORECAST DEMAND**
- TASK 6: PROVIDE QUANTIFIABLE EVIDENCE OF NEED IN THE COMMUNITY AND ANECDOTAL COMMENTS**
- TASK 7: CONFER WITH DEVELOPER HIS EXPERIENCE DEVELOPING CINEMAS IN SMALL COMMUNITIES**

Scope of Services

TASK 1: Conduct survey and interviews in the South Salinas Valley – Cities of Gonzales, Soledad, Greenfield and King City

PMC staff will conduct intercept interviews with the public in Gonzales, Soledad, Greenfield and King City.

TASK 2: Make conclusions and recommendations on constructing a multiplex cinema in Soledad

Conclusions and recommendations will be part of the final report to the City.

TASK 3: Provide recent trends

PMC will provide the City with data reports detailing consumer spending patterns for entertainment.

TASK 4: Define trade area or target market

PMC will provide the City with a detailed report identifying target populations, likely attendees of the proposed theater and geographical constraints.

TASK 5: Survey area market conditions (populations growth, etc, etc.); forecast demand

PMC will provide the City with an analysis of projected market demands for a cinema in Soledad. This analysis will include:

- Population growth and projections thru 2017,
- Industry trends and forecasts,
- Consumer behavior reports, and
- Established consumer spending patterns and future projections

TASK 6: Provide quantifiable evidence of need in the community and anecdotal comments

Once all research and analysis is complete, PMC will provide the City with a Key Findings Report detailing the quantitative and qualitative evidence revealed.

EXHIBIT C
FACILITIES AND EQUIPMENT

CITY shall furnish physical facilities such as desks or tables and conference space, as may be reasonably necessary for Consultant's use while consulting with CITY employees and reviewing records and the information in possession of CITY. The location, quantity, and time of furnishing said physical facilities shall be at the sole discretion of CITY. In no event shall CITY be obligated to furnish any facility that may involve incurring any direct expense, including, but not limiting the generality of this exclusion, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

EXHIBIT B
PAYMENT SCHEDULE

CITY shall pay Consultant an amount not to exceed the total sum of **Nineteen Thousand Seven Hundred Forty Dollars and 00/100 (\$19,740)**. The CITY will make each payment within thirty (30) days of billing.

The total sum stated above is the total that CITY will pay for the services to be rendered by Consultant pursuant to this Agreement. CITY shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement.

CITY shall make no payment for any extra, further or additional service pursuant to this Agreement unless such extra service and the price therefore is agreed to in writing executed by the City Manager or other designated official of CITY authorized to obligate CITY thereto prior to the time such extra service is rendered.

The services to be provided under this Agreement may be terminated without cause at any point in time in by either party by prior written notice. In this event, CITY shall compensate the Consultant for all outstanding costs incurred for work satisfactorily completed as of the date of written notice thereof. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to date.

EXHIBIT D GENERAL PROVISIONS

1. INDEPENDENT CONSULTANT. At all times during the term of this Agreement, Consultant shall be an independent Consultant and shall not be an employee of CITY. CITY shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, CITY shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement.

Therefore, without receiving the Consultant's written permission, CITY agrees not to hire, retain or contact with any employee of Consultant who performs services for the CITY under this Agreement for a period of one year from the date this Agreement is terminated.

2. LICENSES; PERMITS; ETC. Consultant represents and warrants to CITY that it has all licenses, permits, qualifications and approvals of whatsoever nature that are legally required for Consultant to practice its profession. Consultant represents and warrants to CITY that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession.

3. TIME. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement.

4. INSURANCE REQUIREMENTS. Consultant shall procure and maintain for the duration of the contract "occurrence coverage" insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees or subConsultants. The cost of such insurance shall be included in the Consultant's bid.

(a) Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office form number GL 0002 (Ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001.)

(b) Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(c) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as

respects the CITY, its officers, officials and employees; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- (d) Acceptability of Insurers. Insurance is to be placed with insurers with a Bests' rating of no less than A: VII.
- (e) Verification of Coverage. Consultant shall furnish CITY with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.
- (f) The City Manager may approve a variation in those insurance requirements upon a determination that the coverages, scope, limits and forms of such insurance are either not commercially available or that the CITY's interests are otherwise fully protected.

5. CONSULTANT NO AGENT. Except as CITY may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind CITY to any obligation whatsoever.

6. ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

7. PERSONNEL. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that CITY, in its sole discretion, at any time during the term of this Agreement, desires the removal of any such persons, Consultant shall, immediately upon receiving notice from CITY of such desire of CITY, cause the removal of such person or persons.

8. STANDARD OF PERFORMANCE. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. All instruments of service of whatsoever nature, which Consultant delivers to CITY pursuant to this Agreement, shall be prepared in a substantial, first class and workmanlike manner and conform to the standards of quality normally observed by a person practicing in Consultant's profession.

9. HOLD HARMLESS AND RESPONSIBILITY OF CONSULTANTS. Consultant shall take all responsibility for the work, shall bear all losses and damages directly or indirectly resulting to it, to any sub-Consultant, to the CITY, to CITY officers and employees, or to parties designated by the CITY, *arising from the negligent* performance or character of the work, unforeseen difficulties, accidents, occurrences or other causes predicated on active or passive negligence of the Consultant or of any sub-Consultant.

Consultant shall indemnify, defend and hold harmless the CITY, its officers, officials, directors, employees and agents from and against any or all loss, liability, expense, claim, costs (including costs of defense), suits, and damages of every kind, nature and description directly or indirectly arising from the negligent performance of the work. This paragraph shall not be construed to exempt the CITY, its employees and officers from its own fraud, willful injury or violation of law whether willful or negligent. For purposes of Section 2782 of the Civil Code the parties hereto recognize and agree that this agreement is not a construction contract. By execution of this Agreement, Consultant acknowledges and agrees that it has read and understands the provisions hereof and that this paragraph is a material element of consideration.

Approval of the insurance contracts does not relieve the Consultant or sub-Consultants from liability under this paragraph.

10. GOVERNMENTAL REGULATIONS. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant shall *make every reasonable effort to* comply with all applicable rules and regulations to which CITY is bound by the terms of such fiscal assistance program. In the case of this Agreement, CITY shall monitor Consultant for conformance to state **CDBG Contract, #06-EDBG-2582.**

11. DOCUMENTS. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda or other written documents or materials prepared by Consultant pursuant to this Agreement shall become the property of CITY upon completion of the work to be performed hereunder or upon termination of the Agreement. *The Consultant shall not be held liable for any reuse of the CITY-owned documents for purposes outside this Agreement.*

12. COMPLIANCE WITH APPLICABLE LAWS. Consultant shall *make every reasonable effort to* comply with all laws applicable to the performance of the work hereunder, including, but not limited to, laws prohibiting discrimination based on race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex.

13. CITY'S RIGHT TO TERMINATE/SUSPEND CONTRACT. At any time and for any reason, *either party* shall have the right to terminate or cancel the agreement. *Upon such termination, the City may 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, as 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 or requiring completion of the drawings, specifications and other documents upon compensation of the Consultant.

14. 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.

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EXHIBIT E
FEDERAL AND STATE COMPLIANCE ASSURANCES

1. The Civil Rights, HCD, and Age Discrimination Acts Assurances:

During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, or handicap, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all implementing regulations.

2. The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance:

- a) The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for Work in connection with the project be awarded to business concerns, which are located in, or owned in substantial part by persons residing in the area of the project.
- b) The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.
- c) The Grantee will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advertising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d) The Grantee will include these Section 3 clauses in every contract and subcontract for Work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that the Grantee or any Consultant or subConsultant is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless the Grantee or Consultant or subConsultant has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the

execution of the Agreement shall be a condition of the Federal financial assistance provided to the project, binding upon the Grantee, its successors, and assigns. Failure to fulfill these requirements shall subject the Grantee, its Consultants and subConsultants, its successors, and assigns to those sanctions specified by the grant or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

3. State Nondiscrimination Clause:

1. During the performance of this contract, Consultant and its subConsultants shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Consultants and subConsultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Consultants and subConsultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7258.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. Consultant and its subConsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
2. This Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.
 - A. Equal Opportunity Clause. During the performance of this contract, the Consultant agrees as follows:
 1. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 2. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 3. The Consultant will send to each labor union or representative of workers with which the Consultant has a collective bargaining agreement or other contract or

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understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Consultant's noncompliance with the discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.
7. The Consultant will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 504 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subConsultant or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subConsultant or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work; provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Consultants and

subConsultants with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Consultant debarred from, or who has not demonstrated eligibility for, government contracts and Federally assisted construction contracts, pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Consultants and subConsultants by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these under takings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

B. Federal Equal Employment Opportunity Construction Contract Specifications.

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted.
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- d. "Minority" includes:

- (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin).
- (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race).
- (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, southeast Asia, the Indian subcontinent or the Pacific Islands).
- (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Consultant, or any subConsultant at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the notice which contains the

applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Consultant is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the plan area (including goals and timetables) shall be in accordance with that plan for those trades which have unions participating in the plan. Consultants must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Consultant or subConsultant participating in an approved plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other Consultants or subConsultants toward a goal in an approved plan does not excuse any covered Consultant's or subConsultant's failure to take good faith efforts to achieve the plan's goals and timetables.
4. The Consultant shall implement the specific affirmative action standards provided in paragraphs 7.a. through 7.p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Consultant should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Consultants performing construction work in geographical areas where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs or from Federal procurement contracting officers. The Consultant is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Consultant has a collective bargaining agreement, to refer either minorities or women shall excuse the Consultant's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Consultant during the training period, and the Consultant must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Consultant shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Consultant's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Consultant

shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Consultant's employees are assigned to work. The Consultant, where possible, will assign two or more women to each construction project. The Consultant shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Consultant's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Consultant or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Consultant by the union or, if referred, not employed by the Consultant, this shall be documented in the file with the reason therefore; along with whatever additional actions the Consultant may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Consultant has a collective bargaining agreement has not referred to the Consultant a minority person or woman sent by the Consultant or when the Consultant has other information that the union referral process has impeded the Consultant's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Consultant's employment needs, especially those programs funded or approved by the Department of Labor. The Consultant shall provide notice of these programs to the sources compiled under 7.b. above.
- f. Disseminate the Consultant's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Consultant in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- g. Review at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions, including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Consultant's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Consultant's EEO policy with other Consultants and subConsultants with whom the Consultant does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Consultant's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Consultant shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after-school summer and vacation employment to minority and female youth both on the site and in other areas of a Consultant's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60.3.
- l. Conduct at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Consultant's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

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- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Consultants and suppliers, including circulation of solicitations to minority and female Consultant associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Consultant's EEO policies and affirmative action obligations.
8. Consultants are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7.a. through 7.p.). The efforts of a Consultant association, joint Consultant-union, Consultant-community, or other similar group of which the Consultant is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7.a. through 7.p. of these specifications provided that the Consultant actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Consultant's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Consultant. The obligation to comply, however, is the Consultant's and failure of such a group to fulfill an obligation shall not be a defense for the Consultant's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Consultant, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Consultant may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Consultant has achieved its goals for women generally, the Consultant may be in violation of the Executive Order if a specific minority group of women is under-utilized).
10. The Consultant shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
11. The Consultant shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246. 12. The Consultant shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Consultant who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Consultant, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Consultant fails to comply with the

requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Consultant shall designate a responsible official to monitor all employment related activity to ensure that the company's EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone number, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Consultants shall not be required to maintain separate records.
15. Nothing herein provided should be construed as a limitation upon the application of other laws, which establish different standards of compliance, or upon the application of requirements for the hiring of local or other area resident (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
16. By the submission of this bid, the bidder, offeror, applicant, or subConsultant certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that he/she does not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant, or subConsultant agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas,* transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, habits, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subConsultants for specific time periods) he/she will obtain identical certifications from proposed subConsultants prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subConsultants (except where proposed subConsultants have submitted identical certifications for specific time periods).

*Parking lots, drinking fountains, recreation or entertainment areas.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
08/23/07

PRODUCER
1-949-729-0777
Hilb Rogal & Hobbs
Professional Practice Insurance Brokers, Inc.
2030 Main Street
Suite 350
Irvine, CA 92614

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED
Pacific Municipal Consultants Dba: PMC
2729 Prospect Park Drive, Suite 220
Rancho Cordova, CA 95670

INSURER A: Fidelity and Guaranty Insurance Underwriters
INSURER B: Continental Casualty Company
INSURER C: St. Paul Fire and Marine Insurance Co.
INSURER D: Fidelity & Guaranty Insurance Company
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	BK02198975	09/01/06	09/01/07	EACH OCCURRENCE \$ 2,000,000 FIRE DAMAGE (Any one fire) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COM/POP AGG \$ 4,000,000
D	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BA02198949	09/01/06	09/01/07	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	BK02198975	09/01/06	09/01/07	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	BW02198957	09/01/06	09/01/07	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	OTHER Professional Liability	MCA254079593	09/01/06	09/01/07	Per Claim \$ 1,000,000 Aggregate \$ 3,000,000 \$

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
Certificate Holder is named as an Additional Insured per attached endorsement.
All operations of the named insured.

The City of Soledad

PMC Project: Market Feasibility Study

CERTIFICATE HOLDER ADDITIONAL INSURED; INSURER LETTER: A

CANCELLATION

City of Soledad
City Manager
Noelia F. Chapa
248 Main Street
Soledad, CA 93960
USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL SEND BY MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT NOT MORE THAN 30 DAYS BEFORE THE EXPIRATION DATE OF THE POLICY.
AUTHORIZED REPRESENTATIVE
Corra Fern

Name Insured: Pacific Municipal Consultants Dba: PMC	Policy No: BK02198975
Additional Insured: The City of Soledad	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

LIABILITY COVERAGE PART

1. The following replaces the final paragraph of SECTION II. WHO IS AN INSURED, 1.:

However, no person or organization is an insured with respect to the conduct of any current or past partnership, joint venture, limited liability company or trust that is not shown as a Named Insured in the Liability Coverage Part Declarations. This provision does not apply to you, for your participation in any past or present "unnamed joint venture," or if that person or organization is otherwise an insured under Paragraph 2. below.

2. The following is added to SECTION II. WHO IS AN INSURED, 2.:

Person Or Organization Required By Written Contract

Any person or organization that you agree to add as an insured under this Liability Coverage Part in a written contract or agreement that is made before, and in effect when, the "bodily injury" or "property damage" occurs or the offense that causes the "personal injury" or "advertising injury" is first committed, but only with respect to that person's or organization's liability arising out of "your work" for that person or organization.

However, such person or organization is not an insured with respect to any:

- (1) "Bodily injury," "property damage," "personal injury" or "advertising injury" that does not arise out of:

- (a) Your negligence; or
- (b) The negligence of another person or organization for whom you are liable;

- a. Direct employees; or
- b. Owns, rents, or leases any real or personal property.

No other member or partner, or their spouses, of any past or present "unnamed joint venture" is an insured.

- (2) "Bodily injury," "property damage," "personal injury" or "advertising injury" for which such person or organization has assumed liability in a contract or agreement, except for liability for damages that such person or organization would have in the absence of the contract or agreement;

- (3) "Property damage" to:
- (a) Property owned, used or occupied by, or loaned or rented to, such person or organization;
 - (b) Property over which such person or organization is for any purpose exercising physical control; or
 - (c) "Your work" performed for the insured; or

- (4) "Bodily injury," "property damage," "personal injury" or "advertising injury" arising out of any architect's, engineer's or surveyor's rendering of, or failure to render, any "professional service," when such person or organization is an architect, engineer or surveyor.

3. The following is added to SECTION II. WHO IS AN INSURED:
"Unnamed Joint Venture"

You are an insured for your participation in any past or present "unnamed joint venture."
However, you are not an insured if the "unnamed joint venture" has:

4. The following replaces SECTION III. LIMITS OF LIABILITY, 2. b.:

- b. Will apply separately to the sum of all:

- (1) Damages because of "bodily injury" and "property damage," under SECTION I. COVERAGE, A. Liability above; and
- (2) Medical payments for "bodily injury," under SECTION I. COVERAGE, B. Medical Payments

arising out of each location listed in the Schedule of Premises or each of "your projects;" and

above;

However, we waive any right of recovery and proceeds we may have against any person or organization that is added as an additional insured under the paragraph **Person Or Organization Required By Written Contract of SECTION II. WHO IS AN INSURED, 2.:**

5. The following replaces **SECTION IV. CONDITIONS, 5. "Other Insurance," a. Primary Insurance, (2):**

- (a) Paragraph **h. Certain Additional Insureds By Contract or Agreement;** or
- (b) **Persons Or Organizations Required By Written Contract;**

if you specifically agree, in that written contract or agreement, that this insurance must be primary to, and non-contributory with, such "other insurance." This insurance will then be applied as primary insurance for damages for "bodily injury," "property damage," "personal injury" or "advertising injury" to which this insurance applies and that are incurred by such person or organization, and we will not share those damages with such "other insurance."

6. The following is added to **SECTION IV. CONDITIONS, 5. "Other Insurance," b. Excess Insurance:**

This insurance is excess over an "other insurance" whether primary, excess, contingent or on any other basis that is available to you for your participation in any past or present "unnamed joint venture."

- (2) However, this insurance will be considered primary to, and non-contributory with, "other insurance" issued directly to a person or organization added as an addition insured under **SECTION II. WHO IS AN INSURED, 2.:**

7. The following is added to **SECTION IV. CONDITIONS, 8. Transfer Of Rights Of Recovery And Proceeds Against Others To Us:**

NOTICE OF CANCELLATION: If we cancel this policy for any reason other than non-payment of premium, we will mail written notice at least 30 days before the effective date of cancellation to the Additional Insureds on file with the company. If we cancel this policy for non-payment of premium, we will mail written notice at least 10 days before the effective date of cancellation to the Additional insureds on file with the company.

- a. Because of payments we make for "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of "your work" in ongoing operations or included in the "products-completed operations hazard"; and
- b. Performed under a written contract or agreement that is made before, and in effect when, the "bodily injury" or "property damage" occurs or the offense that causes the "personal injury" or "advertising injury" is committed; and
- c. You specifically agree in such written contract or agreement to waive those rights of recovery and proceeds for such person or organization.

8. The following are added to **SECTION V. DEFINITIONS.**

"Unnamed joint venture" means any joint venture in which you are a member or partner where:

- a. Each and every one of your co-ventures in that joint venture is an architectural, engineering or surveying firm; and
- b. That joint venture is not named in the Liability Coverage Part Declarations.

"Your premises" means any premises, site, or location owned or occupied by, or rented to, you.

"Your project:"

- a. Means any premises, site or location at, on, or in which "your work" is not yet completed; and
- b. Does not include "your premises" or any location listed in the Schedule of Premises.