

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into on this 17th day of July, 2020 ("Effective Date"), by and between the City of Manhattan Beach, a municipal corporation ("City") and Willdan Engineering, a California corporation ("Contractor") (collectively, the "Parties").

RECITALS

A. City desires to utilize the services of Contractor as an independent contractor to provide code enforcement services to the City connection with emergency protective measures necessary to safeguard public health during the COVID-19 pandemic.

B. Contractor represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Contractor and Contractor desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the Parties' performance of the promises, covenants, and conditions stated herein, the Parties hereto agree as follows:

Section 1. Contractor's Services. Contractor shall perform the services described in the Scope of Services (the "Services"), attached as Exhibit A. City may request, in writing, changes in the Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement. Contractor shall commence the Services on the Effective Date and shall perform all Services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

Section 2. Term of Agreement. The term of this Agreement shall be from the Effective Date through June 30, 2021, unless sooner terminated as provided in Section 9 of this Agreement or extended.

Section 3. Compensation. City agrees to pay Contractor a fee of \$65.00 per hour. The rate is comprehensive and includes project management and any additional costs incurred by Contractor in performance of this contract (ie: mileage, uniforms and officer equipment or supplies). Contractor shall not be entitled to reimbursement for any expenses. Any expenses incurred by Contractor that are not expressly authorized by this Agreement will not be reimbursed by City.

Section 4. Method of Payment. Contractor shall submit to City a detailed invoice on a monthly basis for the services performed pursuant to this Agreement. Each invoice shall describe in detail the services rendered during the period, the days worked, number of hours worked, the hourly rates charged, and the services performed for each

day in the period, as applicable. Within 45 days of receipt of each invoice, City shall pay all undisputed amounts included on the invoice.

Section 5. Independent Contractor. The Parties agree, understand, and acknowledge that Contractor is not an employee of the City, but is solely an independent contractor. Contractor expressly acknowledges and agrees that City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance or other employee benefits and that any person employed by Contractor shall not be in any way an employee of the City. As such, Contractor shall have the sole legal responsibility to remit all federal and state income and social security taxes and to provide for his/her own workers' compensation and unemployment insurance and that of his/her employees or subcontractors. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees. Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Contractor shall indemnify and hold harmless City and its elected officials, officers and employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Contractor's personnel practices. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

Section 6. Permits and Licenses. Contractor shall obtain and maintain during the term of this Agreement all necessary licenses, permits, and certificates required by law for the provision of the Services, including a business license.

Section 7. Insurance.

(a) Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1. Commercial General Liability Insurance with a minimum limit of \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Contractor is a limited liability company, the commercial general liability coverage shall be amended so that Contractor and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$1,000,000.00 per accident for bodily injury and property damage.

3. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Contractor has no employees while performing

Services under this Agreement, Contractor shall execute a declaration that it has no employees.

4. Professional Liability Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

(b) Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. City, its officers, officials, employees, designated volunteers and agents serving as independent contractors in the role of City officials, are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no limitations on the scope of protection afforded to City, its officers, officials, employees, designated volunteers or agents serving as independent contractors in the role of City officials which are not also limitations applicable to the named insured.

2. For any claims related to this Agreement, Contractor's insurance coverage shall be primary insurance as respects City, its officers, officials, employees, designated volunteers and agents serving as independent contractors in the role of City officials. Any insurance or self-insurance maintained by City, its officers, officials, employees, designated volunteers or agents serving as independent contractors in the role of City officials shall be excess of Contractor's insurance and shall not contribute with it.

3. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

4. Each insurance policy, except for the professional liability policy, required by this clause shall expressly waive the insurer's right of subrogation against City and its elected officials, officers, employees, servants, attorneys, designated volunteers, and agents serving as independent contractors in the role of City officials.

(c) The City may, in writing, amend and/or waive any or all of the insurance provisions set forth herein.

(d) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A-;VII in the latest edition of Best's Insurance Guide, unless waived in writing by City's Risk Manager.

(e) Contractor agrees that if it does not keep the aforesaid insurance in full force and effect it will be considered a breach of the contract. If there is a breach, City may immediately terminate this Agreement.

(f) All insurance coverages shall be confirmed by Contractor providing certificates of insurance and executed endorsements on forms approved by City. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by City before services commence.

(g) Any deductibles or self-insured retentions must be declared to and approved by City.

(h) Contractor shall require any sub-contractors to maintain insurance coverage that meets all of the requirements of this Agreement.

Section 8. Indemnification. Contractor shall defend, indemnify, and hold harmless the City, its officials, and every officer, employee and agent of City (collectively "Indemnitees") from any claim, liability or financial loss (including, without limitation, attorneys fees and costs), injuries to property or persons (including without limitation, attorneys fees and costs) arising out of any acts or omissions of Contractor, its officials, officers, employees or agents in connection with the performance of this Agreement, except for such claim, liability or financial loss or damage arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Contractor shall defend Indemnitees, with counsel appointed by Contractor and approved by Indemnitees, at Contractor's own cost, expense, and risk, and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. Contractor shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Contractor or Indemnitees. All duties of Contractor under this Section shall survive termination of this Agreement.

Section 9. Termination.

(a) City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Contractor at least five calendar days before the termination is to be effective. Contractor may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

(b) Contractor shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Contractor, City shall pay Contractor based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the Services required by this Agreement. Contractor shall have no other claim against City by reason of such termination, including any claim for compensation.

Section 10. Notice. Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Contractor's and City's regular business hours, or (c) three business days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

If to City: City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266
Attn: Lisa Jenkins

If to Contractor: Willdan Engineering
2401 East Katella Avenue
Anaheim, CA 92806
Attn: Albert Brady

Section 11. Attorneys' Fees. If a party commences any legal, administrative, or other action against the other party arising out of or in connection with this Agreement, the prevailing party in such action shall be entitled to have and recover from the losing party all of its attorneys' fees and other costs incurred in connection therewith, in addition to such other relief as may be sought and awarded.

Section 12. Entire Agreement. This Agreement represents the entire integrated agreement between City and Contractor, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both City and Contractor.

Section 13. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement shall be resolved in a superior court with geographic jurisdiction over the City of Manhattan Beach.

Section 14. Prohibition of Assignment and Delegation. Contractor shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent.

Section 15. City Not Obligated to Third Parties. City shall not be obligated or liable under this Agreement to any party other than Contractor.

Section 16. Exhibits. **Exhibit A** and **Exhibit B** constitute a part of this Agreement and are hereby incorporated in this Agreement by this reference. In the event of any discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 17. Corporate Authority. The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by their execution, the Parties are formally bound to the provision of this Agreement.

Section 18. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

[SIGNATURE PAGE FOLLOWS]

EXECUTED on the date first written above at Manhattan Beach, California.

CITY OF MANHATTAN BEACH

CONTRACTOR:

DocuSigned by:
By: Bruce Moe 7/17/2020
Name: Bruce Moe
Title: City Manager

DocuSigned by:
By: Al Brady 7/17/2020
Name: Albert Brady
Title: Deputy Director of Building & Safety, CBO

ATTEST:

DocuSigned by:
By: Liza Tamura 7/17/2020
Name: Liza Tamura
Title: City Clerk

APPROVED AS TO FORM:

DocuSigned by:
By: City Attorney, Quinn Barrow 7/17/2020
Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

DocuSigned by:
By: Steve Charelian 7/17/2020
Name: Steve Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

DocuSigned by:
By: Lisa Jenkins 7/17/2020
Name: Lisa Jenkins
Title: Human Resources Director

EXHIBIT A SCOPE OF SERVICE

Firm Profile

Founded in 1964, Willdan Group, Inc. is a leading nationwide provider of value-added professional technical and consulting services. The primary markets Willdan serves are: municipal engineering, planning, and staff augmentation; infrastructure and transportation; energy; economic and financial analysis; and homeland security and emergency management. The company serves these four complementary markets through its four service segments — engineering (Willdan Engineering), energy efficiency (Willdan Energy Solutions), public finance (Willdan Financial Services) and homeland security (Willdan Homeland Solutions).

*Willdan has been in business
for over 56 years*

Willdan has a reputation for delivering high-quality projects on time and within budget. Rooted in Willdan's corporate culture is its focus on quality customer service. The company has more than 1000 employees, including licensed engineers, program and construction managers, financial analysts, planners, and other skilled professionals.

Willdan benefits from well-established relationships with local and state government agencies, investor-owned and municipal utilities, and private sector commercial and industrial firms throughout the United States. The company served more than 800 distinct clients in 2015. Headquartered in Anaheim, the company operates from offices in more than a dozen states across the US.

Willdan Engineering

Willdan Engineering (Willdan), a California Corporation and subsidiary of WGI, specializes in solutions tailored to the unique needs of municipalities and other local government agencies. Services range from full-time, in-house staffing to interim or part-time assistance on a project-by-project basis.

*Willdan's business model is
centered on the public sector.*

Willdan's understanding of public agency needs and issues is unique in the industry. In addition to the significant portion of our staff that have served in public agency management positions prior to joining Willdan, Willdan has had numerous assignments with over 60% of the cities and counties in California for building officials, city engineers, planning directors, traffic engineers, and other public agency staff members. With our depth of experience, expertise, knowledge and resources, Willdan is able to offer practical solutions that are timely, cost effective, and that meet the needs of individual communities. The diversity of our staff experience is an added value of our professional services.

*We can function as part of the
City of Manhattan Beach'
team without a conflict of
interest.*

Building and Safety/Engineering Services

Willdan's experience and strength in plan review and inspection services encompasses the complete range of technical disciplines, including permit issuance, building inspection, grading inspection, accessibility inspection, **Code Enforcement**, CASp services, OSHPD III plan check and inspection, flood zone experience, building plan review, and fire-life safety. Willdan maintains an excellent working knowledge of all applicable codes and standards including Caltrans Standard Plans and Specifications, APWA Standards and Specifications, AWWA Standards and Specifications, California Building Codes, CEQA, and Americans with Disabilities Act requirements and California Title 24 requirements on accessibility. The inspection and plan review staff maintain current certifications and attends training on

a regular basis, to stay current with industry technologies and standards. Specific certifications and education are delineated in staff resumes herein.

Scope of Work

Code Enforcement Services

Code enforcement services are among the most complex and challenging services that government agencies provide. According to nationwide studies, property values, crime rates, insurance rates, business development, and the sense of community pride can be directly impacted by the successes of a jurisdiction's code enforcement program.

In an effort to aid jurisdictions with the difficult task of maintaining the quality of life for its citizens through such programs, Willdan has assembled a quality staff with extensive public agency experience in the areas of neighborhood preservation, housing inspection and code enforcement. Our expertise includes the development and implementation of inspection programs designed to ensure public safety, promote community involvement and protect quality of life issues through community education and enforcement of municipal and related codes including preparation for, and participation in, prosecution by city and district attorneys.



Willdan provides the following Code Enforcement Services:

- Inspection services for HUD section 8 programs.
- Review, study and analysis of existing programs.
- Development of ordinances and writing of grant proposals.
- Neighborhood cleanup and improvement programs.
- Community education programs.
- Development of educational materials.
- Provide project managers and/or supervisors as onsite "employees".
- Provide fulltime, part-time, interim and/or weekend staff as onsite "employees"
- Vehicle abatement and parking enforcement.
- Assist in enforcement, including preparation and participation in prosecution by city and district attorneys.
- The registration and enforcement of vacation rentals.
- The regulation of group and/or sober living homes.
- Inspection, regulation and enforcement of medicinal marijuana dispensaries.

Project Manager

Al Brady shall be the Project Manager and is fully responsible for seeing that the project is completed in compliance with the provisions of the agreement (see resume attached). Mr. Brady has over 30 years' experience in the code profession has provided contract code services to approximately 90 municipalities in California, Arizona and Nevada. He specializes in developing new code programs, improving existing divisions, revenue enhancement, ordinance revisions, maximizing staff efficiency and enhancing customer relations.

Related Experience

City of Goleta – Project Manager. Provided interim code enforcement staff.

County of Orange – Project Manager. Provided the staff of three full time code enforcement officers on a contract basis to address the county's backlog of code enforcement cases.

City of Soledad – Project Manager. Developed and implemented a new proactive code enforcement program. Willdan provided a contract code enforcement officer to staff this program for over one year.

City of Fountain Hills, Az – Project Manager. Developed and implemented a town code enforcement department. The scope of work included hiring staff, training and supervision for an eight-month period.

City of Irwindale – Project Manager. Provided municipal code enforcement services including monitoring of a local racetrack for compliance with the City Sound Ordinance on an interim basis.

City of Walnut – Project Manager. Provided interim code enforcement staff who were responsible for enforcing the City's Municipal Code.

City of South Pasadena – Project Manager. Provided interim code enforcement staff.

City of Irvine – Project Manager. Providing interim code enforcement staff.

City of Laguna Hills – Project Manager. Assisted the city in the development of a public education program concerning the city's code program.

City of Los Alamitos - Directed and participated in review of the city's code enforcement policy and procedures, and made recommendations for changes as necessary. Additionally, provided interim code enforcement staff and a Community Development Director.

City of Hawaiian Gardens – Project Manager. Assisted the City of Hawaiian Gardens in developing and implementing an Administrative Citation program.

City of Rosemead - Project Manager. Provided interim code enforcement staff to inspect a targeted areas of the city to facilitate neighborhood improvements.

City of San Clemente – Project Manager. Provided interim Code Enforcement staff to assist with their Code Enforcement Program.

City of Superior, AZ - Direct and participate in the review of the city's code enforcement policy and procedures, and make recommendations for changes as necessary. Development and Implementation of a Nuisance and an Administrative Citation Ordinance.

City of La Canada Flintridge - Direct and participate in the review of the city's code enforcement policy and procedures, and make recommendations for changes as necessary. Development and Implementation of a Nuisance, Cost Recovery and an Administrative Citation Ordinances. Provided interim code enforcement staff to conduct inspections and facilitate neighborhood improvements.

City of Adelanto – Project Manager. Provided interim Code Enforcement staff to assist with their Code Enforcement Program.

City of Del Mar - Provided interim code enforcement staff to the City and managed their entire Code program.

It should be noted that the projects listed above is not a comprehensive list of all our past code clientele but represents a small portion of the Municipalities we have served. We have also successfully provided service to the following jurisdictions:

- Bradbury
- City of Palm Desert
- City of Rancho Mirage
- Costa Mesa
- Desert Hot Springs
- El Monte
- Folsom
- Fountain Valley
- Laguna Woods
- Pasadena
- Perris
- Rancho Cordova
- Sacramento
- San Diego County
- San Jose
- San Juan Capistrano
- San Luis Obispo
- Sierra Madre
- Ventura
- West Hollywood

References

City of Laguna Woods

Rebecca Pennington
3244 Paseo Adelanto
San Juan Capistrano, CA 92675
(949) 234-4568
Project: Provided interim code enforcement staff.

City of La Canada Flintridge

Susan Koleda
1327 Foothill Boulevard
La Canada Flintridge, CA 91011
(818) 780-8881
Project: Provided interim code enforcement staff.

County of Orange

Terry Cox
300 North Flower Street
Santa Ana, CA 92703
(562) 233-8969
Project: Provided interim code enforcement staff

In closing, Willdan has provided code compliance services to numerous different California Cities and Counties. We are confident our team can provide the customer service based code compliance program the City is seeking. We hope this proposal meets with your approval. The resumes for our proposed team are on the pages that follow.

EXHIBIT B

Federal Emergency Management Agency (FEMA) Procurement Clauses

Under Contract Provisions for Non-Federal Entity Contracts Under Federal Award under 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, the following clauses are applicable to the goods and/or services acquired by the City of Manhattan Beach.

Applicable to all Purchases below \$10,000:

- 1) Suspension and Debarment - Contractor guarantees that it, its employees, contractors, subcontractors or agents (collectively "Contractor") are not suspended, debarred, excluded, or ineligible for participation in Medicare, Medi-Cal or any other federal or state-funded health care program, or from receiving Federal funds as listed in the List of parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration. Contractor must within 30 calendar days advise the City if, during the term of this Agreement, Contractor becomes suspended, debarred, excluded or ineligible for participation in Medicare, Medi-Cal or any other federal or state-funded health care program, as defined by 42 U.S.C. 1320a-7b(f), or from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration. Contractor will indemnify, defend and hold the City harmless for any loss or damage resulting from the conviction, debarment, exclusion or ineligibility of the Contractor.
- 2) Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended) - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.
- 3) Procurement of Recovered Materials –
 - (i) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— • Competitively within a timeframe providing for compliance with the contract performance schedule; • Meeting contract performance requirements; or • At a reasonable price.
 - (ii) Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - (iii) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

- 4) Access to Records –
 - (a) The Contractor agrees to provide the City of Manhattan Beach, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - (b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - (c) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
 - (d) In compliance with the Disaster Recovery Act of 2018, the City of Manhattan Beach and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
- 5) Changes – Any change, modification, change order, or constructive change are allowable, to the contract by either party will be documented in writing and agreed to by both parties.
- 6) Department of Homeland Security (DHS) Seal, Logo, and Flags – Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- 7) Compliance with Federal Law, Regulations, and Executive Orders - This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- 8) No Obligation by Federal Government - The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- 9) Program Fraud and False or Fraudulent Statements or Related Acts - The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

