



## Legislation Details (With Text)

**File #:** 19-0022      **Version:** 1

**Type:** Consent - Staff Report      **Status:** Agenda Ready

**In control:** City Council Regular Meeting

**On agenda:** 1/15/2019      **Final action:**

**Title:** Resolution No. 19-0008 Approving a Pass-Thru Agreement with Willdan Engineering for Project Management, Mitigation and Compliance Monitoring, Plan Check and Inspection Services for the Manhattan Village Mall Renovation Project (Community Development Director McIntosh).  
ADOPT RESOLUTION NO. 19-0008

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Resolution No. 19-0008, 2. Agreement – Willdan Engineering Inc.

Date	Ver.	Action By	Action	Result
1/15/2019	1	City Council Regular Meeting		

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Anne McIntosh, Community Development Director  
Nhung Madrid, Senior Management Analyst  
Laurie B. Jester, Planning Manager

**SUBJECT:**

Resolution No. 19-0008 Approving a Pass-Thru Agreement with Willdan Engineering for Project Management, Mitigation and Compliance Monitoring, Plan Check and Inspection Services for the Manhattan Village Mall Renovation Project (Community Development Director McIntosh).  
**ADOPT RESOLUTION NO. 19-0008**

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**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 19-0008 approving a pass-thru agreement with Willdan Engineering for project management, mitigation and compliance monitoring, plan check and inspection services for the Manhattan Village Mall Renovation Project.

**FISCAL IMPLICATIONS:**

There is no fiscal impact on the City. Pursuant to conditions of approval, RREEF, the developer of the Mall renovation and remodel project must pay all City costs, including the cost of consultants, associated with the processing of the renovation and remodel plans. Pursuant to the agreement, the City has no obligation to pay Consultant from any source of funds other than funds deposited by

RREEF.

## **BACKGROUND:**

On December 2, 2014, the City Council adopted Resolution No. 14-0026, approving the Manhattan Village Mall Renovation Project. Conditions of approval require the developer (RREEF) to fund the cost of City and its consultants ensuring that the conditions of approval are complied with, as well as monitoring of the mitigation measures, as required by CEQA in the Mitigation Monitoring and Reporting Program.

A lawsuit was filed challenging the City Council's approval of the Project and certification of the Environmental Impact Report (EIR). On October 2, 2016, the Los Angeles Superior Court ruled that the City Council had acted correctly and complied with all applicable laws in approving the Project and certifying the EIR. Shortly after the judgement was entered, RREEF submitted plans, plan check fees and deposits, and entered into a reimbursement agreement with the City to pay for all costs associated with processing of the plans and permits for the Renovation Project. To avoid any City expenditure of funds, the City engaged the services of Willdan Engineering ("Willdan") to provide project and compliance management services related to the Project, and, at the request of RREEF, to coordinate and expedite review of plan checks and inspections.

On March 21, 2017, the City Council adopted Resolutions 17-0037 and 17-0038 ratifying the approval of two separate "pass-thru" agreements (i.e. the cost of all services performed by Willdan are passed through to RREEF). The City's obligation to pay invoices submitted by Willdan is subject to there being sufficient funds available in RREEF's deposit accounts to pay Willdan invoices. As stated in these agreements, the City has no obligation to pay Willdan from any source of funds other than funds in RREEF's deposit accounts. Thus, with no fiscal impact upon the City, the City Manager had the authority to execute these agreements. Nevertheless, to keep the public informed about the progress of the Project, and to document the Agreements for record keeping, in 2017, the City Council adopted two resolutions ratifying the approval of the agreements.

## **DISCUSSION:**

The initial agreement with Willdan was to provide project management and mitigation monitoring and compliance, which had a deposit cap of \$240,000. This contract expired on September 28, 2018. The second agreement with Willdan is to provide Plan Check and Inspection Services, which has a deposit cap of \$250,000 and expires on December 31, 2019.

Following approval of the two agreements, RREEF deposited funds, per their reimbursement agreement with the City, into a deposit account to cover Willdan invoices related to the Project. With the Project actively underway since late 2016, the invoices from Willdan for their plan check, inspection, and project management services has exceeded the agreements maximum.

Staff recommends that the City Council adopt Resolution No. 19-0008 approving a new agreement for project management, mitigation and compliance monitoring, plan check and inspection services (Attachment). With this new contract the key takeaways include the following:

- This new agreement will replace the two existing Willdan agreements.
- Project Management fees for services are the same as the 2016 contract and the balance of the fees were increased slightly above the 2017 based on the Consumer Price Index (CPI).
- The City's obligation to pay invoices submitted by Willdan is subject to sufficient funds available in RREEF's deposit account.

- The City has no obligation to pay Willdan from any source of funds other than funds in RREEF's deposit account.
- No agreement maximum since it is a "pass-thru" agreement.
- The term of the contract is 5 years as it is anticipated the project will be complete within that time frame.

Since reimbursement agreements do not have a fiscal impact upon the City, omitting a maximum dollar amount allows staff more flexibility in managing the project, and bypassing potential undue delays. In the event additional amendments to the contract are necessitated that are not within the proposed agreements, staff will return to City Council for review and approval.

**PUBLIC OUTREACH/INTEREST:**

After analysis, staff determined that public outreach was not required for this issue.

**ENVIRONMENTAL REVIEW:**

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

**LEGAL REVIEW:**

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

**Attachments:**

1. Resolution No. 19-0008
2. Agreement - Willdan Engineering Inc.