

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Dave Klotzle, City Engineer/Public Works Director 

**DATE:** October 4, 2013 (CC Meeting of 10/16/13)

**SUBJECT:** Consider Agreement with Willdan Engineering Inc. for Engineering Plan Check and Development Inspection Services

**DISCUSSION**

RJR Engineering Group (RJR) currently provides engineering plan check and construction inspection services to the City for land development construction projects. The Essex project located north of High Street and just west of the Community Center is nearing completion of the entitlement process and is expected to be submitted for engineering plan check in the near future. Prior to becoming the City's engineering plan check and inspection services provider, RJR performed engineering services for the Essex project. To avoid any perceived conflicts of interest related to RJR performing engineering plan check and inspection services for the City on the Essex project, staff proposes to hire Willdan Engineering Inc. (Willdan) to provide those services. There will be no change to the City's existing schedule of fees to be collected from the Essex project for Willdan to provide engineering plan check and inspection services.

Willdan has submitted a proposal which is included in the attached agreement as Exhibit C. Willdan will initially provide engineering plan check and inspection services for the Essex project only, but staff may utilize Willdan's services on other projects if necessary. Willdan currently provides engineering plan check services to the City of Camarillo and has qualified personnel to provide the required engineering plan check and inspection services to the City of Moorpark.

**FISCAL IMPACT**

Engineering plan check and inspection services performed by the City's consultant, along with City administrative costs, are paid from deposits made to the City by developers.

**STAFF RECOMMENDATION**

Authorize the City Manager to execute an agreement with Willdan Engineering, Inc. for engineering plan check and development inspection services, subject to final language approval by the City Manager and City Attorney.

Attachment:

Agreement

AGREEMENT BETWEEN THE CITY OF MOORPARK AND  
WILLDAN ENGINEERING, FOR PLAN CHECK  
AND DEVELOPMENT INSPECTION SERVICES

THIS AGREEMENT, is made and effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2013, between the City of Moorpark, a municipal corporation ("City") and Willdan Engineering, a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, City has the need for plan checking and construction inspection services; and

WHEREAS, Consultant specializes in providing such services and has the proper work experience, certifications, and background to carry out the duties involved; and

WHEREAS, Consultant has submitted to City a Proposal dated July 8, 2013, which is attached hereto as Exhibit C.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and premises herein stated, the parties hereto agree as follows:

1. TERM

The term of this Agreement shall be from the date of execution to completion of the work identified in the Scope of Services and in conformance with Exhibit B, unless this Agreement is terminated or suspended pursuant to this Agreement.

2. SCOPE OF SERVICES

City does hereby retain Consultant, as an independent contractor, in a contractual capacity to provide plan checking services, as set forth in Exhibit B. In the event there is a conflict between the provisions of Exhibit B and this Agreement, the language contained in this Agreement shall take precedence. Consultant shall perform the tasks described and set forth in Exhibit B.

Compensation for the services to be performed by Consultant shall be in accordance with Exhibits B and C. Compensation shall not exceed the rates as stated in Exhibit C, without a written Amendment to the Agreement executed by both parties. Payment by City to Consultant shall be in accordance with the provisions of this Agreement.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of their ability, experience, standard of care, and talent, perform all tasks described herein. Consultant

shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

#### 4. MANAGEMENT

The individual directly responsible for Consultant's overall performance of the Agreement provisions herein above set forth and to serve as principal liaison between City and Consultant shall be Roxanne Hughes, and no other individual may be substituted without the prior written approval of the City Manager.

The City's contact person in charge of administration of this Agreement, and to serve as principal liaison between Consultant and City, shall be the City Manager or the City Manager's designee.

#### 5. PAYMENT

Taxpayer ID or Social Security numbers must be provided, on an IRS 1099 form, before payments may be made to vendors.

The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibits B and C, based upon actual time spent on the above tasks.

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager or the City Manager's designee. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. Any expense or reimbursable cost appearing on any invoice shall be accompanied by a receipt or other documentation subject to approval of the City Manager or the City Manager's designee. If the City disputes any of Consultant's fees or expenses, City shall give written notice to Consultant within thirty (30) days of receipt of any disputed fees set forth on the invoice.

#### 6. TERMINATION OR SUSPENSION WITHOUT CAUSE

The City may at any time, for any reason, with or without cause, suspend, or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall

immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

The Consultant may terminate this Agreement only by providing City with written notice no less than thirty (30) days in advance of such termination.

In the event this Agreement is terminated or suspended pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination or suspension, provided that the work performed is of value to the City. Upon termination or suspension of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to this Agreement.

7. DEFAULT OF CONSULTANT

The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate or suspend this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

If the City Manager or his/her designee determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ( ) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. LIQUIDATED DAMAGES

This Section is intentionally left blank.

9. OWNERSHIP OF DOCUMENTS

Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide

free access to the representatives of City or the City's designees at reasonable times to such books and records; shall give the City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Notification of audit shall be provided at least thirty (30) days before any such audit is conducted. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

Upon completion of, or in the event of termination or suspension without cause of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

#### 10. INDEMNIFICATION AND HOLD HARMLESS

**Indemnity for professional liability:** When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

**Indemnity for other than professional liability:** Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section from each and every subconsultant, or any other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity

obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this Section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns, or heirs of Consultant and shall survive the termination of this Agreement or this Section.

City does not and shall not waive any rights that it may have against Consultant by reason of this Section, because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions shall apply regardless of whether or not said insurance policies are determined to be applicable to any losses, liabilities, damages, costs, and expenses described in this Section.

#### 11. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit A attached hereto and incorporated herein by this reference as though set forth in full.

#### 12. INDEPENDENT CONSULTANT

Consultant is and shall at all times remain as to the City a wholly independent Contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers or employees, or agents of the City except as set forth in this Agreement. Consultant shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

#### 13. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of local, state, and federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and

employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

14. ANTI DISCRIMINATION

Neither the Consultant, nor any subconsultant under the Consultant, shall discriminate in employment of persons upon the work because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or gender of such person, except as provided in Section 12940 of the Government Code. The Consultant shall have responsibility for compliance with this Section [Labor Code Section 1735].

15. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award, terms, or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City will receive compensation, directly or indirectly from Consultant, or any officer, employee, or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

16. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of the City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Services during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Services performed under this Agreement.

17. CONFLICT OF INTEREST

Consultant covenants that neither they nor any officer or principal of their firm have any interests, nor shall they acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, they shall employ no person having such interest as an officer, employee, agent, or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services directly or indirectly, with the developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, now or within the past one (1) year, and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any contract with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) and/or public

agency(ies) owning property and/or processing an entitlement application for property in the City or its Area of Interest, while under contract with the City and for a one (1) year time period following termination of this Agreement.

18. NOTICE

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

To: City Manager  
City of Moorpark  
799 Moorpark Avenue  
Moorpark, California 93021

To: Roxanne Hughes  
Willdan Engineering  
374 Poli Street, Suite 101  
Ventura, California 93001

Either party may, from time to time, by written notice to the other, designate a different address or contact person, which shall be substituted for the one above specified. Notices, payments and other documents shall be deemed delivered upon receipt by personal service or as of the third (3rd) day after deposit in the United States mail.

19. CHANGE IN NAME

Should a change be contemplated in the name or nature of the Consultant's legal entity, the Consultant shall first notify the City in order that proper steps may be taken to have the change reflected in the Agreement documents.

20. ASSIGNMENT

Consultant shall not assign this Agreement or any of the rights, duties, or obligations hereunder. It is understood and acknowledged by the parties that Consultant is uniquely qualified to perform the services provided for in this Agreement.

21. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services in this Agreement.

22. VENUE AND GOVERNING LAW

This Agreement is made, entered into, and executed in Ventura County, California, and any action filed in any court or for arbitration for the interpretation, enforcement or other action of the terms, conditions, or covenants referred to herein shall be filed in the applicable court in Ventura County, California. The City and Consultant understand and agree that the laws of the state of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

23. COST RECOVERY

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including attorneys' fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

24. ARBITRATION

Cases involving a dispute between City and Consultant may be decided by an arbitrator if both sides agree in writing, with costs proportional to the judgment of the arbitrator.

25. ENTIRE AGREEMENT

This Agreement and the Exhibits attached hereto contain the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

26. CAPTIONS OR HEADINGS

The captions and headings of the various Articles, Paragraphs, and Exhibits of this Agreement are for convenience and identification only and shall not be deemed to limit or define the content of the respective Articles, Paragraphs, and Exhibits hereof.

27. AMENDMENTS

Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by both parties to this Agreement.

28. PRECEDENCE

In the event of conflict, the requirements of the City's Request for Proposal, if any, and this Agreement shall take precedence over those contained in the Consultant's Proposal.

29. INTERPRETATION OF AGREEMENT

Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

30. WAIVER

No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

31. AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF MOORPARK

WILLDAN ENGINEERING

By: \_\_\_\_\_

By: \_\_\_\_\_

Steven Kueny, City Manager

Bill Pagett, Director of Engineering

Attest:

\_\_\_\_\_  
Maureen Benson, City Clerk

## Exhibit A

### INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet requirements set forth here, Consultant agrees to amend, supplement, or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to the City in excess of the limits and coverage required in this Agreement and which is applicable to a given loss, will be available to the City.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office (ISO) "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence for all covered losses and no less than \$2,000,000 general aggregate.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability for each such person.

Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, error or omissions of the Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this Agreement.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City for injury to employees of Consultant, subconsultants, or others involved in the Work. The scope of coverage provided is subject to approval by the City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$2,000,000 aggregate.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the State of California and with an A.M. Bests rating of A- or better and a minimum financial size of VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and the City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City, its officials, employees, and agents, using standard ISO endorsement CG 2010 with an edition prior to 1992. Consultant also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right to subrogation prior to a loss. Consultant agrees to waive subrogation rights against the City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operation limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include limiting endorsement of any kind that has not been first submitted to the City and approved in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.

6. All coverage types and limits required are subject to approval, modification, and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect the City's protection without the City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to city at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled or reduced at any time and no replacement coverage is provided, the City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other Agreement and to pay the premium. Any premium so paid by the City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at the City's option.
8. Certificate(s) are to reflect that the insurer will provide thirty (30) days notice to the City of any cancellation or reduction of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation or reduction of coverage imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
9. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to the City.
10. Consultant agrees to ensure that subcontractors, and any other party involved with the Work who is brought onto or involved in the Work by Consultant, provide the same minimum insurance required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the City for review.
11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer, or other entity or person in any way involved in the performance of Work contemplated by this Agreement to self-insure its obligations to the City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time, the City shall review options with the Consultant, which may include reduction or elimination of the

deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to the City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with an insurance requirement in no way imposes any additional obligations to the City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as the City, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until the City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to the City within five days of the expiration of coverage.
17. The provisions of any Workers' Compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to the City, its employees, officials and agents.
18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits, or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts or impairs the provisions of this section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the Work reserves the right to charge the City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to the City. It is not the intent of the City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against the City for payment of premiums or other amounts with respect thereto.
22. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this Agreement. The City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

## Exhibit B

### Scope of Services

#### A. Plan, Map and Report Review

Plans, maps and supporting documents shall be picked up by Consultant the first workday following submittal to City. Consultant shall return the reviewed documents to the City with a summary review letter as required below. City shall be responsible for delivery of reviewed documents to the permit applicant.

1. Consultant shall review and check Final Maps, Parcel Maps, grading and improvement plans, hydrology and hydraulic reports, cost estimates and soils reports for compliance with the current California Subdivision Map Act, City ordinances, conditions of approval, Development Agreements, all applicable codes and sound engineering practices.
2. All plans, maps and reports shall be ready for City approval at the conclusion of the third plan check. The following review turnaround times shall apply:
  - a. First plan check: Within twenty (20) business days after submission of a completed set of plans.
  - b. Second plan check: Within ten (10) business days after submission of requested changes.
  - c. Third plan check: Within five (5) business days after submission of requested changes.

Additional plan checks beyond the third plan check shall only be permitted when approved in advance by the City Manager or his/her designee. Recovery of cost for such plan check shall be at the billing rates shown in Exhibit C. Recovery of costs beyond the fourth plan check may be reduced to less than one hundred percent (100%) if the City Manager or his/her designee determines that the need for the additional plan check is the fault of Consultant.

#### B. Land Development Inspection

Consultant shall provide field inspection during the construction of grading and improvements by private developers to ensure compliance with the project plans and all applicable specifications and codes.

Consultant shall maintain daily inspection reports and any other written documentation regarding a project, and provide a complete record to the City upon completion of a project.

## C. Compensation

### Plan, Map and Report Review

For services provided as described in Section A, Consultant shall be paid a seventy percent (70%) fixed fee, of the review fees collected by City. Progress payments shall be made to the Consultant as follows:

Fifty percent (50%) upon completion of the first plan check; an additional twenty-five percent (25%) upon completion of the second plan check; an additional twenty-five percent (25%) upon completion of the third and final plan check. Completion of the final plan check shall occur when the plans are signed by the City Engineer or such other City employee designated by the City Manager.

### Other Reviews

For easement reviews, hydrological, geological, or other analyses beyond typical land development project review, Consultant shall be paid additional compensation for actual cost for preparation or review of such analyses. For such services, Consultant shall provide City with a quotation. No services will be authorized until written City approval is granted and an Additional Services Authorization is signed by the City Manager or the City Manager's designee. The services provided by Consultant pursuant to this section shall be performed in a timely manner to allow City compliance with the processing requirements of the Permit Streamlining Act.

### Land Development Inspection

For services provided as described in Section B, Consultant shall be paid a seventy percent (70%) fixed fee, of the current fees collected by City. Progress payments shall be made according to the current hourly fee schedule, not to exceed ninety-five percent (95%) of the total fee, until recommendation of final acceptance of the project is made by the Consultant to the City Engineer (in the event the City Engineer is not a City employee, then the City Manager or his or her designee), at which time the remainder of the fixed fee shall be invoiced as part of the next billing cycle.

## D. Consultant Hourly Rates

The Consultant's hourly fee rates for services provided for this Agreement shall be those contained in Exhibit C.

Exhibit C

Proposal

DRAFT

July 8, 2013

Dave Klotzle  
City Engineer/Public Works Director  
City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021

**Subject: Proposal for Third Party Land Development Plan Check Services, Soils Review and Inspection (Construction Observation) for the Essex Project**

Dear Mr. Klotzle:

Willdan Engineering (Willdan) is pleased to submit this proposal to the City of Moorpark (City) to provide third party land development plan checking review, soils and geology review, and inspection services for the Essex Project (Moorpark Apartments). Willdan has prepared this proposal to provide the services as requested via phone conversations and email from the City. We are prepared and dedicated to provide the City with the extension of staff necessary to perform these services within the established turnaround times and fee structure that the City currently uses.

**Willdan is the ideal consultant to provide the desired services because of our extensive knowledge of public agencies.** I will personally serve as the Project Manager and main point of contact for this assignment. I have well over a decade of land development plan check experience and I am currently serving as a contract Deputy City Engineer and Contract Land Development Project Manager for different cities, resulting in a critical knowledge of the processes and procedures required to effectively execute this project.

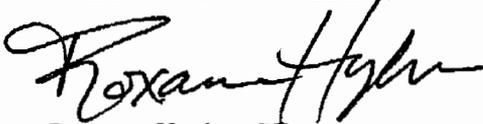
**Willdan has an outstanding team of experts ready to serve the City of Moorpark.** We have gathered a team who has previously worked together to successfully complete similar scope of work and schedule as being requested by the City.

The enclosed proposal includes Willdan's proposed team members, scope of work, and fee as we see is necessary to provide the City with the requested services, based on our depth of experience completing similar services to numerous agencies throughout California.

We appreciate this opportunity to submit our proposal for your consideration and look forward to discussing your needs and our qualifications. If you have any questions, please contact Ms. Roxanne Hughes at (805) 653-6597 or [rhughes@willdan.com](mailto:rhughes@willdan.com).

Respectfully submitted,

**WILLDAN ENGINEERING**



Roxanne Hughes, PE  
Principal Project Manager

## Project Team

### Project Manager

**Ms. Roxanne C. Hughes, PE, Principal Project Manager**, will be the contract Project Manager and in responsible charge for all aspects of project performance. She will be the primary point of contact and will perform the actual final plans review and complete the plan check comments to be returned to the City for processing to the applicant. Ms. Hughes has over 15 years of experiencing performing land development services for a variety of cities. She was born and raised in the City of Ventura, and is therefore very familiar with Ventura County on the whole. Over the last decade, Ms. Hughes has provided land development plan checking for local the Cities of Simi Valley, Fillmore, Thousand Oaks and Camarillo. Her plan checking experience includes cities and counties all over the State of California, however most of the experience is local to Ventura County.

### Proposed Team

**Mr. Mike Perkins, EIT, Senior Plans Examiner**, will provide the primary grading and drainage plan review services. He has been involved in land development plan checking for twenty-five years, including serving Ventura County agencies such as Simi Valley, Fillmore, Thousand Oaks and Camarillo.

**Mr. Beaux Thompson, EIT, Design Engineer I**, will provide technical support in checking quantities for cost estimates, reference plan checking and other detail work to support a cost effective review.

**Mr. Ross Khiabani, PE, GE, Principal Geotechnical Engineer**, will provide review and approval of soils and geology reports for the subject project. He has more than 30 years of local professional experience in performing diversified geotechnical assignments involving soil and foundation engineering, soil stabilization, landslide analysis and stabilization, settlement evaluations, liquefaction studies, temporary and permanent slope stability analyses, laboratory testing, and onshore and offshore exploration. His vast experience includes providing geotechnical services for numerous public projects ranging from institutional, ports and harbors, public works, transportation (including major bridges, local roads, freeways and toll roads) and water and wastewater facilities. Mr. Khiabani maintains close communications with local city, county, and state reviewers and is familiar with governing codes and requirements.

**Mr. Steven Gonzalez, Publics Works Observer**, will serve as the Public Works Inspector. Mr. Gonzalez has provided inspection, and construction management, and quantity takeoffs for street improvements, mass grading, precise grading and utility installations. He is highly cognizant of the special needs of public agencies in terms of good relations with the surrounding businesses and neighborhoods and will give close attention to public safety related items while overseeing the site construction.

## Scope of Work

Willdan shall provide land development plan check, soils and geology and inspection services in connection with the Essex Project. The work, in general, shall include but not be limited to the following:

### Land Development Plan Checking (Review)

- Review developer engineering of streets, grading, drainage, water and wastewater plans with supporting calculations and reports (data) in accordance with good engineering practices and to be compliant with current conditions of approval, City standards and formats, City ordinances, policies, and other relevant criteria.



- Review shall be in sufficient detail to determine compliance with pertinent Conditions of Approval, Federal, State, County and City standards, codes and requirements. However, it is recognized that the primary responsibility for plan design adequacy resides with the engineer of record.
- Prepare a written plan review checklist. The list of questions and/or required corrections shall be returned to City with one marked-up set of plans with mark-ups of supporting data.
- The plan check will include, but not be limited to, a review of:
  - Proposed and proper grading, including verification of grade slope design, dimensions, widths, lengths, depths, etc. All grading shall be checked for conformity with the applicable sections of the 2010 California Building Code and the project geotechnical reports.
  - Material specifications: Incorporation of general and specific city standard construction notes.
  - Drainage facilities, structures, vaults, pipes, catch basins, specifications, and evaluation of applicable associated numerical data, etc.
  - Hydrology and storm drain hydraulic report analysis, when applicable. Review will ensure compliance with City, County and FEMA requirements and consistency of the model data with the improvement plans.
  - Interface with existing infrastructure such as: surrounding streets, storm drains and utilities, identifying infrastructure conflict and adjacent development interface where applicable or called for. The connections to existing improvements shall be field verified and available as-built record drawings acquired and reviewed for utilities and street improvements.
  - Review of improvement cost estimates for fee and bonding purposes (performance, labor and material bond amounts and other development fees, as requested). Line items and quantities shall be verified for consistency with the improvement plans.
  - Geotechnical report interpretation as they pertain to grading, structural design and pavement section recommendations.
  - Review of water and wastewater plans to ensure that they are in conformity with Public Works standards, if required. Proper facilities at public to private interface and adequacy of public right of way and/or provision of easements will be included.
- Willdan's Project Manager will meet with developer's engineer, if requested, to discuss plan check comments. All such meetings will be held at City with its representatives.
- Ms. Roxanne Hughes is designated as the Project Manager in responsible charge of providing these services. She possess a valid certificate of registration as a Civil Engineer issued by the California State Board of Registration for Civil and Professional Engineers, and a valid Class C California driver's license.
- The City shall provide the plans and supporting documents at the commencement of each plan review. Willdan will immediately review the submittal package for completeness and notify the City of any deficiencies or discrepancies; which shall be remedied before an assignment is considered complete for commencement of plan review.
- It is understood that the City will handle all administrative activities, such as review of format of bonds and agreements, preparation of City Council Resolutions or staff reports and similar staff action items. These can be provided for Willdan's review and use, if requested.



- The plan checks shall be completed and returned to the City in a 3-2-1 format; the first plan check completed within 3 weeks (15 business days); second plan check in 2 weeks (10 business days) and the third plan check in 1 week (5 business days).
- It is the intent of this contract that all plans shall be ready for permit issuance at the conclusion of the third plan check. If there are developments during plan check, such as significant redesign, additional scope of construction or lack of responsiveness on the part of the engineer, that may cause additional reviews beyond the third review, this will be documented in writing and brought to the City's attention. Additional plan checks beyond the third review shall only be permitted when approved in advance by the City.

#### **Geology and Soils Engineering Review**

- Review developer's geotechnical and geological reports in accordance with good engineering practices and to be compliant with current conditions of approval, City standards and formats, City ordinances, policies, and other relevant criteria.
- Mr. Ross Khiabani is designated to be in responsible charge of providing these soils and geology review services. He possesses a valid certificate of registration as a Civil Engineer and Geotechnical Engineer issued by the California State Board of Registration for Civil and Professional Engineers, and a valid Class C California driver's license.
- The soils reviews shall be completed concurrently with the grading and drainage reviews, and will also be returned to the City in the 3-2-1 format as described in the section above.

#### **Land Development Inspection (Construction Observation)**

- Willdan will provide field inspection during the construction of public works improvements associated with the Essex Project. Willdan will keep daily inspection records, provide appropriate direction to the contractors to ensure full conformance with the approved plans and specifications, coordinate proper procedures for any required change orders, and at the proper times notify the City when there is a need for stop work notices, notices for completion and acceptance of the work, including reports concerning exoneration of bonds or other surety.
- Public safety is always top priority in execution of construction phase inspections. Willdan will report to the City immediately upon observation of any obstructions, potholes, incorrect traffic control signing or other easily observable public safety items that may be seen in driving to and from the project site.



### Project Fee

Willdan shall provide land development plan check, soils and geology review services in connection with the Essex Project using established fee structures typically used by the City in third party plan checks. The plan check services as described in the above Scope of Services, up to and including three plan checks, will be provided at a fixed fee of seventy percent (70%) of the current fees collected by the City pursuant to Resolution No. 2008-2670 (Items II and IV and as specified in Item V). Progress payments shall be made as follows:

Completion of 1 <sup>st</sup> Plan Check	50% of total fee
Completion of 2 <sup>nd</sup> Plan Check	Additional 25% of total fee
Completion of 3 <sup>rd</sup> Plan Check (When signed by City Engineer)	Additional 25% of total fee
<b>Total =</b>	<b>100% of fee</b>

The land development inspection services described above in Scope of Services, shall also be provided at a fixed fee of seventy percent (70%) of the current fees collected by the City pursuant to Resolution No. 2008-2670 (Item III and as specified in Item V). Monthly progress payments shall be made according to the current hourly fee schedule, not to exceed ninety-five percent (95%) of the total fee until recommendation of final acceptance of the project is made by Willdan to the City, at which time the remainder of the fixed fee shall be invoiced in the following billing cycle.

Willdan proposes to provide progress invoicing and additional services, as may be approved by the City in connection with this assignment, based on the attached Willdan Engineering Schedule of Hourly Rates.



**WILLDAN ENGINEERING**  
**Schedule of Hourly Rates**  
 Effective July 1, 2013 to June 30, 2014

<b>ENGINEERING</b>		<b>LANDSCAPE ARCHITECTURE</b>	
Technical Aide.....	\$88.00	Assistant Landscape Architect.....	103.00
Drafter I.....	98.00	Associate Landscape Architect.....	118.00
Drafter II.....	103.00	Senior Landscape Architect.....	129.00
Senior Drafter.....	113.00	Principal Landscape Architect.....	155.00
GIS Analyst I.....	118.00	Principal Project Manager.....	185.00
GIS Analyst II.....	134.00		
GIS Analyst III.....	155.00	<b>BUILDING AND STEEL</b>	
Design Engineer I.....	118.00	Assistant Code Enforcement Officer.....	72.00
Design Engineer II.....	124.00	Plans Examiner Aide.....	77.00
Designer I.....	118.00	Assistant Construction Permit Specialist.....	77.00
Designer II.....	124.00	Construction Permit Specialist.....	82.00
Senior Design Engineer I.....	129.00	Code Enforcement Officer.....	82.00
Senior Design Engineer II.....	134.00	Assistant Building Inspector.....	**98.00/113.00
Senior Designer.....	134.00	Senior Code Enforcement Officer.....	98.00
Associate Engineer.....	139.00	Senior Construction Permit Specialist.....	103.00
Design Manager.....	139.00	Supervising Construction Permit Specialist.....	108.00
Senior Design Manager.....	149.00	Building Inspector.....	**108.00/113.00
Senior Engineer.....	149.00	Supervisor Code Enforcement.....	118.00
Supervising Engineer.....	165.00	Senior Building Inspector.....	118.00
Program Manager.....	185.00	Plans Examiner.....	118.00
Project Manager.....	185.00	Supervising Building Inspector.....	129.00
City Engineer.....	185.00	Senior Plans Examiner.....	129.00
Principal Project Manager.....	185.00	Inspector of Record.....	144.00
Deputy Director.....	195.00	Deputy Building Official.....	144.00
Director.....	195.00	Plan Check Engineer.....	144.00
Principal Engineer.....	215.00	Building Official.....	155.00
		Supervising Plan Check Engineer.....	155.00
		Principal Project Manager.....	185.00
		Deputy Director.....	195.00
		Director.....	195.00
<b>CONSTRUCTION MANAGEMENT</b>		<b>PLANNING</b>	
Labor Compliance Specialist.....	98.00	Community Development Technician.....	88.00
Labor Compliance Manager.....	124.00	Planning Technician.....	88.00
Utility Coordinator.....	129.00	Assistant Planner.....	108.00
Assistant Construction Manager.....	124.00	Assistant Community Development Planner.....	108.00
Construction Manager.....	149.00	Associate Community Development Planner.....	118.00
Senior Construction Manager.....	160.00	Associate Planner.....	118.00
Project Manager.....	185.00	Senior Community Development Planner.....	134.00
Deputy Director.....	195.00	Senior Planner.....	134.00
Director.....	195.00	Principal Community Development Planner.....	155.00
		Principal Planner.....	155.00
		Deputy Director.....	195.00
		Director.....	195.00
<b>INSPECTION SERVICES</b>		<b>ADMINISTRATIVE</b>	
Assistant Public Works Observer.....	**103.00/113.00	Computer Data Entry.....	67.00
Public Works Observer.....	**103.00/113.00	Clerical.....	67.00
Senior Public Works Observer.....	113.00	Word Processing.....	67.00
Supervising Public Works Observer.....	124.00		
<b>MAPPING AND EXPERT SERVICES</b>		Mileage reimbursement will be charged at the current Federal guideline rate at the time of billing. Vehicles will be charged at a monthly rate of \$500.00.	
Survey Analyst I.....	103.00	** Prevailing Wage Project, Use \$113.00	
Survey Analyst II.....	118.00		
Calculator I.....	103.00		
Calculator II.....	113.00		
Senior Calculator.....	124.00		
Senior Survey Analyst.....	134.00		
Supervisor - Survey & Mapping.....	160.00		
Principal Project Manager.....	185.00		

Additional billing classifications may be added to the above listing during the year as new positions are created. Consultation in connection with litigation and court appearances will be quoted separately. The above schedule is for straight time. Overtime will be charged at 1.5 times, and Sundays and holidays, 2.0 times the standard rates. Blueprinting, reproduction, messenger services, and printing will be invoiced at cost plus fifteen percent (15%). A sub consultant management fee of fifteen percent (15%) will be added to the direct cost of all sub consultant services to provide for the cost of administration, consultation, and coordination. Valid July 1, 2013 thru June 30, 2014, thereafter, the rates may be raised once per year to the value of change of the Consumer Price Index for the Los Angeles/Orange County/Sacramento area, but not more than five percent per year.