

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
WILLDAN ENGINEERING, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of September 6, 2016, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and Willdan Engineering, Inc., a California corporation (the "Consultant").

RECITALS

A. The Consultant possesses the skill and experience required to perform plan review and building inspection services and is experienced with the Town's procedures.

B. N-Shea Group, LLC, an Arizona limited liability company ("Developer"), needs plan review and building inspection services for construction of the Park Place project to be constructed within the Town limits (the "Project").

C. The Town may directly select Consultant for professional services pursuant to Section 7.2 of the Town Procurement Policy because there is no cost to the Town.

D. The Town desires to enter into an Agreement with the Consultant to perform third party plan review services and building inspection services for the Project on behalf of the Town (the "Services"). It is clearly understood that Consultant is under contract to work directly for the Town and its responsibility is to the Town.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until September 5, 2017 (the "Initial Term"), unless terminated as otherwise provided in this Agreement. After the expiration of the Initial Term, this Agreement may be renewed for one successive one-year term (a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal in the subsequent year, (ii) at least 30 days prior to the end of the then-current term of the Agreement, the Consultant requests, in writing, to extend the Agreement for an additional one-year term and (iii) the Town approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Consultant's failure to seek a renewal of this Agreement shall cause the Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of the Consultant, elect to

waive this requirement and renew this Agreement. The Initial Term and any Renewal Term are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit A and incorporated herein by reference, and provide the Town with a copy of all inspection logs and scanned field reports.

3. Compensation. Consultant shall charge Developer an amount not to exceed \$261,459.70 for the Services at the rates set forth in the Fee Proposal, attached hereto as Exhibit B and incorporated herein by reference. Consultant shall be paid for all Services, even if the Project is not completed. Consultant shall look only to Developer for payment of the Services.

4. Payments. The Developer shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices, even if the Project is discontinued. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment. Developer will indemnify and hold harmless the Town from all lawful demands for payment, and shall, at the Town's request, furnish satisfactory evidence that all obligations of this Agreement have been paid, discharged or waived. The contract number must be referenced on all invoices.

5. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the Town pursuant to this Agreement shall be the property of the Town.

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the Town. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the Town of same and shall, subject to the concurrence of the Town, replace such personnel with personnel possessing substantially equal ability and qualifications.

7. Inspection; Acceptance. All of Consultant's work shall be subject to inspection and acceptance by the Town at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the Town. If the Town Manager deems it necessary for a Town representative to enter the work site to inspect Consultant's work, the Town representative shall log in each visit with the site superintendent upon arrival and log out upon leaving the site.

8. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The Town has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The Town has no obligation to provide tools, equipment or material to Consultant.

9. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and to the professional standards in the field ordinarily exercised by members of Consultant's profession.

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Consultant, its officers, employees, agents, or any tier of subcontractor in connection with Consultant's work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the Town. Failure to maintain insurance as specified herein may result in termination of this Agreement at the Town's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not represent that coverage and limits will be adequate to protect Consultant. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms

of this Agreement are satisfactorily performed, completed and formally accepted by the Town, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the Town as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the Town, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the Town. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the Town and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the Town with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Town shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the policies required

by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the Town 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without a reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The Town, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Consultant's insurance shall be primary insurance with respect to performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against Town, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed

by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the Town, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

C. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

11.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or be materially changed without 30 days' prior written notice to the Town.

12. Termination; Cancellation.

12.1 For Town's Convenience. This Agreement is for the convenience of the Town and, as such, may be terminated without cause after receipt by Consultant of written notice by the Town. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

12.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.3 Due to Work Stoppage. This Agreement may be terminated by the Town upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the Town to the Consultant for the undisputed portion of its fee due as of the termination date.

12.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The Town may cancel this Agreement without penalty or further obligations by the Town or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the Town or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

12.5 Gratuities. The Town may, by written notice to the Consultant, cancel this Agreement if it is found by the Town that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the Town for the purpose of securing this Agreement. In the event this Agreement is canceled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

12.6 Agreement Subject to Appropriation. Intentionally omitted.

13. Miscellaneous.

13.1 Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the Town. Consultant, its employees and subcontractors are not

entitled to workers' compensation benefits from the Town. The Town does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the Town, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit A. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. Town and Consultant do not intend to nor will they combine business operations under this Agreement.

13.2 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

13.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future Town and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future Occupational Safety and Health Administration standards.

13.4 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the Town and the Consultant.

13.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, this Agreement will promptly be physically amended to make such insertion or correction.

13.6 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

13.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

13.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the Town signed by the Town Manager and no delegation of any duty of Consultant shall be made without prior, written permission of the Town signed by the Town Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

13.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the Town. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

13.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the Town to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the Town's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of this Agreement.

13.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

13.12 Liens. All materials or services shall be free of all liens and, if the Town requests, a formal release of all liens shall be delivered to the Town.

13.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The Town may offset from any money due to the Consultant any amounts Consultant owes to the Town for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

13.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S.

Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Attn: Grady E. Miller, Town Manager

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attn: Andrew J. McGuire

If to Consultant: Willdan Engineering, Inc.
1440 East Missouri, Suite C170
Phoenix, Arizona 85014
Attn: Roger Brooks

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

13.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the Town for the purpose of ensuring that information contained in its records or obtained from the Town or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the Town. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

13.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 13.17 below, Consultant's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead

allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 13.17 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

13.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

13.18 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the Scope of Work or the Fee Proposal, the documents shall govern in the order listed herein.

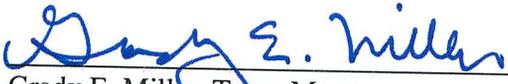
13.19 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the Town. The Town reserves the right to obtain like goods and services from another source when necessary.

[SIGNATURES ON FOLLOWING PAGES]

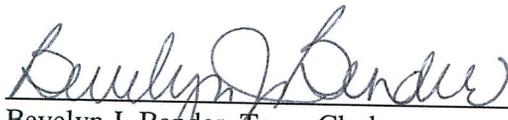
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation


Grady E. Miller, Town Manager

ATTEST:

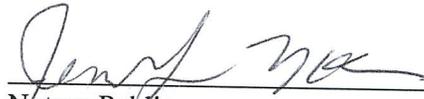

Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On September 7, 2016, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.




Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

William S. Jones

APR 09 2019
My Commission Expires
Wm. S. Jones
JANUARY 10 2019
Wm. S. Jones



“Consultant”

WILLDAN ENGINEERING, INC.,
a California corporation

By: *James M. Guerra*

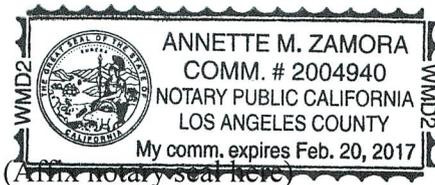
Name: JAMES M. GUERRA

Title: DIRECTOR

(ACKNOWLEDGMENT)

STATE OF California)
 Los Angeles) ss.
COUNTY OF _____)

On September 7, _____, 2016, before me personally appeared James M. Guerra
_____, the Director Building & Safety of WILLDAN ENGINEERING,
INC., a California corporation, whose identity was proven to me on the basis of satisfactory
evidence to be the person who he/she claims to be, and acknowledged that he/she signed the
above document on behalf of the corporation.



Annette M Zamora, Notary Public
Notary Public

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

**Compensation terms in Sections 3 and 4 above
are approved and agreed to by:**

N-SHEA GROUP, LLC,
an Arizona limited liability company

By: *Baert*

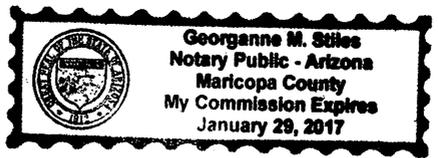
Name: *Baert in Shea*

Title: *Member*

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On *September 6*, 2016, before me personally appeared
Baert in Shea, the *member* of N-SHEA GROUP, LLC, an
Arizona limited liability company, whose identity was proven to me on the basis of satisfactory
evidence to be the person who he/she claims to be, and acknowledged that he/she signed the
above document on behalf of the limited liability company.



[Signature]
Notary Public

(Affix notary seal here)

January 29, 2017
The Commission Expires
Maricopa County
Notary Public - Arizona
Georgina M. Soltes



EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
WILLDAN ENGINEERING, INC.

[Scope of Work]

See following pages.

EXHIBIT A
TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE TOWN OF FOUNTAIN HILLS AND WILLDAN ENGINEERING.

SECTION 1 –PLAN REVIEW

A. BUILDING PLAN REVIEW SERVICES

Willdan Engineering shall provide BUILDING PLAN REVIEW SERVICES to ensure compliance with Codes and Ordinances as adopted by the Town of Fountain Hills.

Building plan review services include reviewing the project construction documents including all specifications to assure adherence to the requirements listed on said documents as adopted by the Town of Fountain Hills. This includes but is not limited to the review of disciplines of Architectural, Structural, Mechanical, Plumbing, Electrical, Model Energy, Accessibility, Civil and Fire/Life Safety. In addition to the review specified in IBC Sections 106.1 through 106.5 Willdan engineering or the Town of Fountain Hills, are authorized to make or require other reviews of any construction work to ascertain compliance with the provisions of the adopted codes and other laws that are enforced by the Town of Fountain Hills.

The Fountain Hills Sanitary District will need to perform the following Plan Review:

1. Review of all plumbing that should drain to the grease interceptor. The Sanitary District will need to verify that all designated fixtures in the kitchen area are in fact draining to the grease interceptor before the plumbing is covered.
2. Providing requirements for the testing of grease interceptor. This may include the requirements for a water test. Interceptor must be filled to the manhole rims and sit for 24 hours to soak. Then the interceptor is topped off and a 24 hour test is performed for water tightness.
3. Confirmation of connections to the main sewer stub outs.
4. Provide evidence of the review prior to the approval of the plans for construction.

At minimum, Town of Fountain Hills will need to perform the following reviews unless assigned to Willdan Engineers to perform the review on the Towns behalf:

1. Landscaping pre-final and final inspection
2. Automatic Fire Sprinkler
3. Fire Alarm
4. Commercial Kitchen Hood System
5. Fire line underground (in conjunction with Willdan Engineering)
6. Final fire inspection (in conjunction with Willdan Engineering)

All amounts indicated are estimates only. Willdan Engineering's opinions of probable cost are based on training and experience with similar projects. We have no control over the project submittal process and schedule, project construction schedule and/or materials and methods which can affect total costs of the services provided.

B. BUILDING OFFICIAL SERVICES

Willdan Engineering shall provide BUILDING OFFICIAL SERVICES to ensure compliance with all applicable codes, ordinances, and project specifications as adopted by the Town of Fountain Hills and issuance of the Certificate of Occupancy for the project.

C. ADMINISTRATION SERVICES

Willdan Engineering shall provide ADMINISTRATIVE SERVICES which include, processing and distribution of all plan review letters, distribution and coordination to the project team, submittal tracking, records management, and quality assurance of project documents.

D. MISCELLANEOUS BUILDING SAFETY SERVICES

Willdan Engineering shall perform such additional Building Safety functions as requested. This will include but is not limited to the review and approval of all deferred submittals and code related RFI's.

SECTION 2 – BUILDING INSPECTION

A. BUILDING INSPECTION SERVICES

Willdan Engineering shall provide BUILDING INSPECTION SERVICES to ensure compliance with Codes and Ordinances as adopted by the Town of Fountain Hills.

Inspection Services include: Building Inspection services include monitoring construction for adherence to the requirements listed on the approved construction documents under the disciplines of Architectural, Structural, Mechanical, Plumbing, Electrical, Model Energy, Accessibility, Civil and Fire/Life Safety. In addition to the inspections specified in IBC Sections 110.3.1 through 110.3.7, Willdan Engineering or the Town of Fountain Hills are authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the adopted codes and other laws that are enforced by the Town of Fountain Hills.

The Fountain Hills Sanitary District will need to perform the following inspections:

1. Inspection of all plumbing that should drain to the grease interceptor. The Sanitary District will need to verify that all designated fixtures in the kitchen area are in fact draining to the grease interceptor before the plumbing is covered.
2. Testing of grease interceptor. This is a water test. Interceptor must be filled to the manhole rims and sit for 24 hours to soak. Then the interceptor is topped off and a 24 hour test is performed for water tightness.
3. Inspection of connections to the main sewer stub outs.
4. Final inspection of project before Certificate of Occupancy is issued.

At minimum, Town of Fountain Hills will need to perform the following inspections:

1. Landscaping pre-final and final inspection
2. Automatic Fire Sprinkler
3. Fire Alarm
4. Commercial Kitchen Hood System
5. Fire line underground (in conjunction with Willdan Engineering)
6. Final fire inspection (in conjunction with Willdan Engineering)

Inspection hours are based on our previous experience working on similar projects. Normal hours of inspection services for determination of Willdan Engineering's fees are based on a Monday through Friday work week during the hours of 7:00 AM - 3:00 PM Arizona time. Inspection times may be adjusted based on seasonal conditions and not to exceed an agreed upon 8-hour work day. After Hours, Weekend and Holiday inspection services are available for double the regular rate for personnel provided with a three-hour minimum.



All amounts indicated are estimates only. Willdan Engineering's opinions of probable cost are based on training and experience with similar projects. We have no control over the project submittal process and schedule, project construction schedule and/or materials and methods which can affect total costs of the services provided.

B. BUILDING OFFICIAL SERVICES

Willdan Engineering shall provide BUILDING OFFICIAL SERVICES to ensure compliance with all applicable codes, ordinances, and project specifications as adopted by the Town of Fountain Hills and issuance of the Certificate of Occupancy for the project.

C. ADMINISTRATION SERVICES

Willdan Engineering shall provide ADMINISTRATIVE SERVICES which include processing and scheduling requests and field reports, project document control, processing review letters, distribution and coordination to the project team, permit tracking, records management, and quality assurance of project documents.

D. MISCELLANEOUS BUILDING SAFETY SERVICES

Willdan Engineering shall perform such additional Building Safety functions as requested. This will include but is not limited to the review and approval of all deferred submittals and code related RFI's.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
WILLDAN ENGINEERING, INC.

[Fee Proposal]

See following pages.

EXHIBIT B
 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
 THE TOWN OF FOUNTAIN HILLS AND WILLDAN ENGINEERING

FEE PROPOSAL

- A. BUILDING PLAN REVIEW, BUILDING INSPECTION, BUILDING OFFICIAL & ADMINISTRATIVE SERVICES
- B. For PLAN REVIEW, INSPECTION, BUILDING OFFICIAL, AND ADMINISTRATIVE SERVICES performed under Exhibits A and B of this Agreement, Willdan Engineering opinions of probable cost are based on training and experience with similar projects. Willdan Engineering fees are based on a full time inspector providing continuous inspections. Willdan Engineering shall invoice N-SHEA for work performed on a monthly basis and N-SHEA shall provide payment within 30 days.

<i>Willdan Engineering Hourly Rates for Services</i>	
Building Official	\$150.00
Fire Marshall	\$115.00
Project Manager	\$100.00
Structural Engineer	\$115.00
Fire Protection Engineer	\$115.00
Civil Engineer	\$115.00
Senior Plans Examiner	\$90.00
Senior Building Inspector	\$90.00
Building Inspector	\$80.00
Senior Permit Specialist	\$60.00
Clerical/Administration	\$60.00

All building safety inspection services provided will be invoiced for hours spent by the specific staff member on a task for the project. In our monthly invoices, we will provide an itemized breakdown of hours and description of the task. We shall also provide a monthly status report on the project.

All amounts indicated are estimates only based on the construction schedule provided by N-Shea for the proposed construction in Fountain Hills, Arizona. Willdan Engineering opinions of probable cost are based on training and experience with similar projects. We have no control over the project submittal process and schedule, project construction schedule and/or materials and methods which can affect total costs of the services provided.

Building Safety Consulting Services provided by Willdan Engineering are techniques employed to safeguard health, safety, property, public welfare, and reduce this risk of problems arising during construction. Provision of these services by Willdan Engineering is not insurance, nor does it constitute a warranty or guarantee of any time. Even with diligent observation, some latent construction defects may be missed. In all cases, contractors shall retain responsibility for the quality of their work, for adhering to approved plans and specifications, and for repairing defects regardless of when they are found. No warranty or guarantee, express or implied, is provided as part of the services offered by this proposal. This proposal neither makes nor intends a warrantee or guarantee, express or implied, nor does it create a fiduciary responsibility to Client by Consultant.



FOUNTAIN HILLS THIRD PARTY PARK PLACE
 PLAN REVIEW AND INSPECTION SERVICES

EXHIBIT B - FEE SCHEDULE

C. MISCELLANEOUS BUILDING SAFETY SERVICES

Willdan Engineering shall, when authorized by the Town of Fountain Hills, perform such additional Building Safety functions as requested.

INSPECTION SERVICES

<u>Line Item</u>	<u>Personnel</u>	<u>Hours</u>	<u>Schedule</u>	<u>Rate</u>	<u>Total</u>
Plan Review Building "C" & "D"					\$60,409.70
Building Inspections	1	40	61 Weeks	\$80.00	\$195,200.00
Building Official	1	39		\$150	<u>\$5,850.00</u>
			Total estimated fees		\$261,459.70

Estimate is based on the construction quoted by N-Shea. After Hours, Weekends and Holidays are not included as a part of this proposal and will be charged at double the regular rate for personnel provided with a three-hour minimum. Normal hours for this proposal are Monday through Friday between 7:00 AM to 3:00 PM. Inspection times may be adjusted based on seasonal conditions and not to exceed an agreed upon 8-hour work day.

