

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

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of July 18, 2011, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town") and Willdan Engineering, Inc., a California corporation (the "Consultant").

RECITALS

- A. Pursuant to Section 3-3-10 of the Town Code, the Town may directly select consultants for professional and technical services.
- B. The Consultant possesses the specific skill and experience required to perform on-call plan review and building inspection services (the "Services") as needed by the Town.
- C. The Town desires to enter into an Agreement with the Consultant to perform the Services upon request by the Town.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing 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 is 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 June 30, 2012 (the "Initial Term"), unless otherwise terminated as provided below. After the expiration of the Initial Term, this Agreement may be renewed for up to two successive one-year terms (each 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 each 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, 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 will cause the Agreement to terminate at the end of the then-current term of this Agreement. The Initial Term and any Renewal Terms are collectively referred to 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.
3. Compensation. For the Initial Term, the City shall pay Contractor an annual aggregate amount not to exceed \$15,000.00 for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit B and incorporated herein by reference. Thereafter, for each

subsequent Renewal Term, if any, the City shall pay the Contractor an annual aggregate amount as agreed to in conjunction with renewal of this Agreement.

4. Payments. The Town shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Ownership of Documents. All documents prepared and submitted to the Town by the Consultant 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 completion of the Services to be performed 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 of substantially equal ability and qualifications.

7. Inspection; Acceptance. All 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.

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 highest professional standards in the field.

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend 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"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor 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 and self-insured retention or deductible portions, 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. 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.

G. 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.

H. 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.

I. 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. In the event any insurance policy required by this Agreement is written on a "claims made" basis, coverage shall extend for two years past completion of the Services and the Town's acceptance of the Consultant's work or services and as evidenced by annual certificates of insurance. 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 the appropriate reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing this Agreement, as applicable, 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 as respects performance of the 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) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form 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. In the event the Professional Liability insurance policy is written on a "claims made" basis,

coverage shall extend for two years past completion and acceptance of the Services, and the Consultant shall be required to submit certificates of insurance and a copy of the declaration page(s) of the insurance policies evidencing proper coverage is in effect as required above.

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 materially change without 30 days' prior written notice to the Town.

12. Applicable Law: Venue. In the performance of this Agreement, Consultant shall abide by and conform to any and all laws of the United States, State of Arizona and Town of Fountain Hills, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. 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. Termination: Cancellation.

13.1 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.

13.2 For Cause. This Agreement may be terminated by either party upon 30 days' written notice should the other party fail to substantially perform in accordance with this Agreement's terms, through no fault of the party initiating the termination. 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.

13.3 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.

13.4 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 the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

13.5 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 cancelled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Consultant fully informed as to the availability of funds for the Agreement. The obligation of the Town to make any payment pursuant to this Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Town and the Consultant shall be relieved of any subsequent obligation under this Agreement.

14. Miscellaneous.

14.1 Independent Contractor. 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. 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.

14.2 Laws and Regulations. The 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 remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including 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 ("OSHA") standards.

14.3 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.

14.4 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the 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, the Agreement will promptly be physically amended to make such insertion or correction.

14.5 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 the Agreement which may remain in effect without the invalid provision or application.

14.6 Relationship of the Parties. 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 is advised that taxes or Social Security payments will not be withheld from any Town payments issued hereunder and Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

14.7 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 the 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.

14.8 Assignment. No right or interest in this Agreement shall be assigned 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.

14.9 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.

14.10 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.

14.11 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.

14.12 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.

14.13 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.

14.14 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, (C) given to a recognized and reputable overnight delivery service, to the address set forth below or (D) delivered by facsimile transmission to the number set forth below:

If to the Town:           Town of Fountain Hills  
16705 East Avenue of the Fountains  
Fountain Hills, Arizona 85268  
Facsimile: 480-837-3145  
Attn: Richard L. Davis, Town Manager

With copy to:           GUST ROSENFELD, P.L.C.  
One East Washington Street, Suite 1600  
Phoenix, Arizona 85004-2553  
Facsimile: 602-254-4878  
Attn: Andrew J. McGuire, Esq.

If to Consultant:       Willdan Engineering, Inc.  
7500 North Dreamy Draw Drive, Suite 130  
Phoenix, Arizona 85020  
Facsimile: 602-870-7601  
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, (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, or (D) when received by facsimile transmission during the normal business hours of the recipient. 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.

14.15 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.

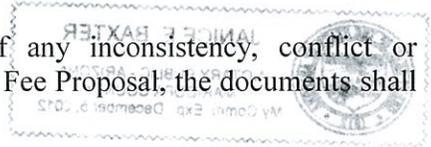
14.16 Records and Audit Rights. Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or Services pursuant to this Agreement to ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below (all 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 14.17 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.

14.17 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 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.

14.18 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Consultant certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this subsection the term “scrutinized business operations” shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the Town determines that the Consultant submitted a false certification, the Town may impose remedies as provided by law including terminating this Agreement pursuant to subsection 13.2 above.

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



14.20 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.

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

**“Town”**

TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation

Richard L. Davis  
Richard L. Davis, Town Manager

ATTEST:

Bevelyn J. Bender  
Bevelyn J. Bender, Town Clerk

**“Consultant”**

WILLDAN ENGINEERING, INC., a California corporation

By: Roger A. Brooks

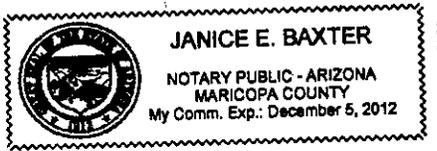
Name: Roger A. Brooks

Title: Principal Project Manager

(ACKNOWLEDGEMENTS)

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF MARICOPA )

This instrument was acknowledged before me on July 19, 2011,  
by Richard L. Davis, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona  
municipal corporation, on behalf of the Town of Fountain Hills.



Janice E. Baxter  
Notary Public in and for the State of Arizona

My Commission Expires:

12/05/2012

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF MARICOPA )

This instrument was acknowledged before me on July 21, 2011,  
by Roger A. Brooks as Project Mgr of WLLDAN ENGINEERING,  
INC., a California corporation, on behalf of the corporation.

Lynn K. Noell  
Notary Public in and for the State of Arizona

My Commission Expires:

March 24, 2014

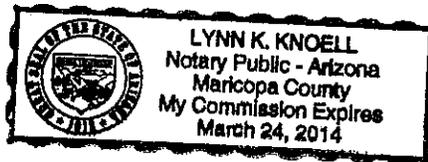


EXHIBIT A  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE TOWN OF FOUNTAIN HILLS  
AND  
WILLDAN ENGINEERING, INC.

[Scope of Work]

See following pages.

**EXHIBIT A**

**Scope of Services**

**Building Department Services**

WILLDAN will provide inspectors, and plans examiners to the Town of Fountain Hills as needed to provide for the continuing operation of the Town's Building Code enforcement operation to include plan check and site inspection covering the following construction design elements:

<b>Architectural and life-safety</b>	IBC
<b>Structural</b>	IBC
<b>Electrical</b>	NEC
<b>Plumbing</b>	IPC
<b>Mechanical</b>	IMC
<b>Zoning</b>	Zoning Requirements
<b>Disabled Access Regulations</b>	ADAAG

**I. BUILDING DEPARTMENT, PLAN CHECK, AND BUILDING INSPECTION SERVICES.**

WILLDAN shall, at the request of the Town of Fountain Hills, examine plans and perform field inspections for compliance with the applicable Building, Plumbing, Mechanical, Electrical and other pertinent Town and State regulations falling within the purview of the Town of Fountain Hills Building Official, including zoning and accessibility requirements as requested. Employees of WILLDAN shall have the power and the duties of the Building Official of the Town of Fountain Hills when performing such work.

**II. BUILDING and CIVIL PLAN REVIEW SERVICES**

WILLDAN will perform plan review for projects, after receipt of reasonable complete plans and all necessary supporting data. WILLDAN will give the Town notice of any individual circumstance, non-compliance or anticipated difficulty which may have an effect on performing the plan review.

WILLDAN shall issue to the Town, a formal written opinion for each set of plans reviewed, verifying either that the plans are in compliance with the Town of Fountain Hills Building, Plumbing, Mechanical and Electrical Codes, and other pertinent Town and State regulations, or specifically detailing all corrections necessary to bring such plans into conformance with said Codes and regulations. WILLDAN shall stamp each sheet of the plans reviewed, verifying that the plans are in compliance with the Town of Fountain Hills Building, Plumbing, Mechanical and Electrical Codes and other pertinent local and State regulations, before returning to Architect for final dispensation.

WILLDAN shall have the protection from liability afforded by the applicable International Building Code to the maximum extent permitted by law when WILLDAN is acting pursuant to the provisions of such section. This provision is not intended and shall not operate in any way to increase the Town of Fountain Hills liability or to decrease its lawful immunity from liability.

**III. THIS SECTION LEFT BLANK**

**IV. INSPECTION SERVICES**

WILLDAN shall upon request of the Town of Fountain Hills perform on-site building safety inspections as outlined and defined by Town's adopted Codes to effect compliance with the Town's adopted Code and any other pertinent local and State regulations falling within the purview of the Town of Fountain Hills.

**V. MISCELLANEOUS BUILDING SAFETY**

WILLDAN shall, when authorized by the Town, perform such additional Building Safety functions as requested.

WILLDAN shall have the protection from liability afforded by applicable International Building Code to the maximum extent permitted by law when WILLDAN is acting pursuant to the provisions of such section outlined in Exhibit A - Scope of Services. This provision is not intended and shall not operate in any way to increase Agency's liability or to decrease its lawful immunity from liability.

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

[Fee Proposal]

See following page.

## EXHIBIT B

### SCOPE OF SERVICES

#### **COMPENSATION**

For plan review services of Architectural, Structural, Electrical, Plumbing, Mechanical, Accessibility and Energy performed under Exhibit A of this Agreement, WILLDAN shall be compensated at a lump sum rate of 75% of the Plan Review fees calculated pursuant to the current fee structure adopted by the Town for an initial review and one complete recheck of the project documents. Third and subsequent reviews will be at WILLDAN's then-current published hourly rate (see attached rate schedule) for personnel provided.

For inspection services performed under Exhibit A of this Agreement, WILLDAN shall be compensated at the current applicable hourly rate for personnel provided. A minimum 2 hours will be assessed for inspections on a given day.

WILLDAN shall invoice the Town for work performed on a monthly basis and the Town shall provide payment within 30 days.

For inspections, with reasonable understanding, Willdan will provide same day inspections in emergency situations to assure the Town's services to the community are met.

Expedited reviews shall be compensated at a rate of twice the calculated fees.

Standard review times are considered as initial review period of 10 working days. Expedited review shall be 5 working days.

The total amount of all services shall not exceed \$15,000.00 annually without prior authorization by the Town Manager.



## SCHEDULE OF HOURLY RATES

<u>CLASSIFICATION</u>	<u>HOURLY RATES</u>
<b>BUILDING</b>	
Division Manager I & II .....	\$150.00
Building Official .....	\$125.00
Plan Check Engineer (FP).....	\$115.00
Sr. Plans Examiner .....	\$100.00
Plans Examiner .....	\$90.00
Inspector of Record .....	\$110.00
Supervising Building Inspector .....	\$105.00
Sr. Building Inspector.....	\$90.00
Building Inspector .....	\$80.00
Construction Permit Specialist.....	\$75.00
<b>CODE ENFORCEMENT</b>	
Division Manager I & II .....	\$150.00
Code Enforcement Supervisor .....	\$90.00
Sr. Code Enforcement Officer .....	\$70.00
Code Enforcement Officer .....	\$65.00
Assistant Code Enforcement Officer .....	\$55.00
<b>ADMIN</b>	
Admin Supervisor II.....	\$80.00
Admin Supervisor I.....	\$65.00
Admin Assistant I & II .....	\$55.00
Word Processor .....	\$50.00
Information Specialist .....	\$45.00

*Additional billing classifications may be added during the year as new positions are created. The above schedule is for straight time. Overtime will be charged at 1.25 times the standard hourly rates including Saturdays. Sundays and holidays will be charged at 1.70 times the standard hourly rates. Subconsultants will be charged with 10% markup of their current rate schedule.*