

**CITY OF COACHELLA
PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of _____, 20____ by and between the City of Coachella, a municipal corporation organized and operating under the laws of the State of California ("City"), and Willdan Financial Services, a subsidiary of Willdan Group, Inc., with its principal place of business at 27368 Via Industria, Suite 200, Temecula, CA 92590 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services to conduct a Development Impact Fee Study (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit "A."

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B."

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Ninety-Six Thousand Dollars (\$96,000)**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by the City.

5. Term.

The term of this Agreement shall be from the execution of this Agreement to January 31, 2027, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project. Consultant shall perform the Services in a prompt and timely manner within the term of this Agreement in accordance with the "Activity Schedule" attached as Exhibit "C".

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; pandemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care; Performance of Employees.

a. Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

b. Consultant's employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature

that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

9. Assignment and Subcontracting.

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates and subcontractors as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Contractor.

Consultant is retained as an independent contractor and is not an employee of the City. No employee or agent of Consultant shall become an employee of the City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from the City as herein provided.

11. Insurance.

Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability.

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability Insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Agreement
- (8) Property Damage
- (9) Independent Contractors Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give the City, its officials, officers, employees, agents and City designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

b. Automobile Liability.

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Automobile Liability Insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give the City, its officials, officers, employees, agents and City designated volunteers additional insured status.

(iv) Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, Workers' Compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions).

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions Insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required.

(i) The following insurance limits are required for the Agreement:

	<u>Combined Single Limit</u>
Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 combined single limit
Employer's Liability	\$1,000,000 per accident or disease
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required.

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or

equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required.

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide a waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against the City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. Qualifying Insurers.

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the

business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions.

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by the City will be promptly reimbursed by Consultant or the City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, the City may cancel this Agreement.

(iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the City nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, the City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers. Notwithstanding the foregoing, Consultant's obligations shall not extend to claims, demands, causes of action, costs, expenses, liability, loss, damage or injury that arise out of the sole or active negligence or willful misconduct of the indemnified parties. Consultant's indemnification obligations will survive the suspension, termination, or expiration of the

Agreement as it pertains to those claims arising out of, pertaining to, or incident to any acts as described herein.

Limitation of Liability - Consultant's total liability for claims or losses arising out of the contract, tort, or otherwise, shall be limited to three (3) times the amount paid to Consultant for the Services. This clause shall in no way limit claims, losses, damages, liabilities, costs, or expenses covered by or required to be covered by Contractor's insurance; or (b) any insurance coverage, limits, or proceeds maintained by, available to, or required to be maintained by Contractor.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. INTENTIONALLY DELETED.

15. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

16. INTENTIONALLY DELETED.

17. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a the Superior Court of California for the County of Riverside.

18. Termination or Abandonment.

a. The City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, the City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. The City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by the City and Consultant of the portion of such task completed but not paid prior to said termination. The City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to the City only in the event of substantial failure by the City to perform in accordance with the terms of this Agreement through no fault of Consultant.

19. Ownership of Documents and Confidential Information.

a. All deliverables and other documents generated by Consultant in the performance of the Services, including all work papers, work-in-progress, designs, drawings, documents, data, computations, specifications, studies and reports prepared by Consultant as a part of the Services or authorized Additional Services ("Consultant Work Product") shall belong to and be subject to the sole ownership and use of the City.

b. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, drawings and specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

c. During the course of the performance of this Agreement, Consultant may receive written or verbal information from the City, its representatives or agents, not in the public domain. Such information may include the City's know how, trade secrets, and other proprietary and confidential information and Consultant agrees to treat such information as confidential information belonging to the City. Consultant agrees that neither it, nor its officers, employees, representatives, agents, successors, or assigns, will disclose such information to any third party or use the same in any manner without the prior written consent of the City. Moreover, Consultant agrees to safeguard such proprietary and confidential information from unauthorized disclosure and/or use using the same degree of care it uses to protect its own proprietary and confidential information, but not less than a reasonable standard of care. In the event that disclosure of such information is sought pursuant to any law or regulation, Consultant shall promptly notify the City of such fact to allow the City to assert whatever exclusions or exemptions may be available to it under applicable law or regulation.

20. Organization.

Consultant shall assign James Edison as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

21. Limitation of Agreement.

This Agreement is limited to and includes only the work described above.

22. Notice.

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Coachella

53990 Enterprise Way

Coachella, CA 9223

Attn: Lincoln Bogard, Finance Director

CONSULTANT:

Wildan Financial Services

27368 Via Industria, Suite 200

Temecula, CA 92590

Attn: Chris Fisher, Vice President / Director

and shall be effective upon receipt thereof.

23. Third Party Rights.

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

24. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-

discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

25. Entire Agreement.

This Agreement, with its exhibits, represents the entire understanding of the City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

26. Severability.

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid or illegal.

27. Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of the City. Any attempted assignment without such consent shall be invalid and void.

28. Non-Waiver.

None of the provisions of this Agreement shall be considered waived by either Party, unless such waiver is specifically specified in writing.

29. Time of Essence.

Time is of the essence for each and every provision of this Agreement.

30. The City's Right to Employ Other Consultants.

The City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

31. Prohibited Interests.

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of the City, during the term of his or her service with the City,

shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF COACHELLA
AND WILLDAN FINANCIAL SERVICES**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF COACHELLA

By: _____
Hannah Shin-Heydorn
City Manager

WILLDAN FINANCIAL SERVICES

By: _____
Its: Vice President / Director
Printed Name: Chris Fisher

ATTEST:

By: _____
Patricia Vazquez
City Clerk

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP
City Attorney

EXHIBIT A
Scope of Services

Scope of Services

This section outlines Willdan Financial Services' ("Willdan") understanding of the City of Coachella's ("City") desire to conduct a Development Impact Fee Update Study, as well as identify the project objectives and discusses the background regarding public facilities financing in California. Also outlined is an overview of our impact fee project approach.

Project Understanding

As part of the larger financial planning effort for the City's General Plan, the City seeks to understand what the financial impacts of foreseeable future development will have on the City's public services and infrastructure, and to identify potential gaps in funding for those necessary improvements. The City desires to update impact fees to ensure a fair and reasonable fee structure, while meeting the requirements of the *California Mitigation Fee Act (California Government Code 66000 et seq)*. The resulting fees will fund new development's share of planned facilities, while not overburdening development with unnecessary costs.

Listed below are the development impact fees that Willdan anticipates will be included in this study. In addition, we understand the City is interested in evaluating the potential establishment of an Electric Infrastructure fee.

- | | |
|------------------------------------|--|
| ▪ Park Land | ▪ Library Facilities |
| ▪ Bus Shelter | ▪ Park Improvement |
| ▪ Street and Transportation | ▪ Police Facilities |
| ▪ General Government Facilities | ▪ Fire Facilities |
| ▪ Art in Public Places | ▪ Water Connection |
| ▪ Sanitary District Connection Fee | ▪ Electric Infrastructure (<i>potential</i>) |

Project Objectives

The objective of this project is to update development impact fees pursuant to State law, and to assist the City in understanding additional infrastructure needs necessitated by future projections such as the housing element. To accomplish this objective, this study will:

- Develop a technically defensible fee justification, based on the reasonable relationship and deferential review standards;
- Review and facility standards, capital facilities plans and costs, and development and growth assumptions;
- Identify potential additional fees to address unmet future capital facilities needs;
- Provide a schedule of maximum-justified fees by land use category; and
- Provide comprehensive documentation of assumptions, methodologies, and results, including findings required by the *Mitigation Fee Act*.

Public Facilities Financing in California

The changing fiscal landscape in California during the past 40 years has steadily undercut the financial capacity of local governments to fund infrastructure. Four dominant trends stand out:

1. The passage of a string of tax limitation measures starting with Proposition 13 in 1978 and continuing through the passage of Proposition 218 in 1996;
2. Declining popular support for bond measures to finance infrastructure for the next generation of residents and businesses;
3. Steep reductions in Federal and State assistance; and
4. Permanent shifting by the State of local tax resources to the State General Fund to offset deficit spending brought on by recessions.

Faced with these trends, many cities and counties have had to adopt a policy of "growth pays its own way." This policy shifts the burden of funding infrastructure expansion from existing rate and taxpayers onto new development. This funding shift has been accomplished primarily through the imposition of assessments, special taxes, and development impact fees, also known as public facilities fees. Assessments and special taxes require approval of property owners or registered voters and are appropriate when the funded facilities are directly related to the developing property.

Development impact fees, on the other hand, are an appropriate funding source for facilities that benefit development jurisdiction-wide. Development fees need only a majority vote of the legislative body for adoption.

Approach and Methodology

Willdan's methodology for calculating public facilities fees is both simple and flexible. Simplicity is important so that the development community and the public can easily understand the justification for the fee program. At the same time, we use our expertise to reasonably ensure that the program is technically defensible.

Flexibility is important, so we can tailor our approach to the available data, and the agency's policy objectives. Our understanding of the technical standards established by statutes and case law suggests that a range of approaches are technically defensible. Consequently, we can address policy objectives related to the fee program, such as economic development and affordable housing. Flexibility also enables us to avoid excessive engineering costs associated with detailed facility planning. We calculate the maximum justifiable impact fee and provide flexibility for the agency to adopt fees up to that amount.

Development impact fees are calculated to fund the cost of facilities required to accommodate growth. The four steps followed in an impact fee study include:

- **Estimate existing development and future growth:** Identify a base year for existing development and a growth forecast that reflects increased demand for public facilities;
- **Identify facility standards:** Determine the facility standards used to plan for new and expanded facilities;
- **Determine facilities required to serve new development and their costs:** Estimate the total amount and cost of planned facilities, and identify the share required to accommodate new development; and
- **Calculate fee schedule:** Allocate facilities costs per unit of new development to calculate the public facilities fee schedule.

We discuss key aspects of our approach to each of these steps in the subsections that follow.

Growth Projections

In most cases, we recommend use of long-range market-based projections of new development. By "long-range" we suggest 20 to 30 years to: capture the total demand often associated with major public facility investments; and support analysis of debt financing, if needed. In contrast to build out projections, market-based projections provide a more realistic estimate of development across all land uses. Build out projections typically overestimate commercial and industrial development because of the oversupply of these land uses relative to residential development.

Facility Standards

The key public policy issue in development impact fee studies is the identification of facility standards (second bullet above). Facility standards document a reasonable relationship between new development and the need for new facilities. Standards ensure that new development does not fund deficiencies associated with existing development.

Our approach recognizes three separate components of facility standards:

1. **Demand standards** determine the amount of facilities required to accommodate growth. Examples include park acres per thousand residents, square feet of library space per capita, or gallons of water per day. Demand standards may also reflect a level of service such as the vehicles-to-capacity (V/C) ratio used in traffic planning;
2. **Design standards** determine how a facility should be designed to meet expected demand, for example park improvement requirements and technology infrastructure for office space. Design standards are typically not explicitly evaluated as part of an impact fee analysis but can have a significant impact on the cost of facilities. Our approach incorporates current facility design standards into the fee program to reflect the increasing construction cost of public facilities; and
3. **Cost standards** are an alternate method for determining the amount of facilities required to accommodate growth based on facility costs per unit of demand. Cost standards are useful when demand standards were not explicitly developed for the facility planning process. Cost standards also enable different types of facilities to be analyzed based on a single measure (cost or value), useful when disparate facilities are funded by a single fee program. Examples include facility costs per capita, per vehicle trip, or cost per gallon of water per day.

Identifying New Development Facility Needs and Costs

We can take several different approaches to identify facility needs and costs to serve new development. Typically, this is a two-step process: 1) identify total facility needs; and 2) allocate to new development its fair share of those needs. Total facility needs are often identified through a master facility planning process that typically takes place concurrent with or prior to conducting the fee study. Engineered facility plans are particularly important in the areas of traffic, water, sewer, and storm drain due to the specialized technical analysis required to identify facility needs.

There are three common methods for determining new development's fair share of planned facilities costs: 1) the existing inventory method; 2) the planned facilities method; and 3) the system plan method. Often the method selected depends on the degree to which the community has engaged in comprehensive facility master planning to identify facility needs.

The formula used by each approach and the advantages and disadvantages of each method is summarized as follows:

Existing Inventory Method

The existing inventory method allocates costs based on the ratio of existing facilities to demand from existing development as follows:

$$\frac{\text{Current Value of Existing Facilities}}{\text{Existing Development Demand}} = \$/\text{unit of demand}$$

Under this method new development funds the expansion of facilities at the same standard currently serving existing development. By definition, the existing inventory method results in no facility deficiencies attributable to existing development. This method is often used when a long-range plan for new facilities is not available. Only the initial facilities to be funded with fees are identified in the fee study. Future facilities to serve growth are identified through an annual Capital Improvement Plan (CIP) and budget process, possibly after completion of a new facility master plan.

Planned Facilities Method

The planned facilities method allocates costs based on the ratio of planned facility costs to demand from new development as follows:

$$\frac{\text{Cost of Planned Facilities}}{\text{New Development Demand}} = \$/\text{unit of demand}$$

This method is appropriate when specific planned facilities can be identified that only benefit new development. Examples include street improvements to avoid deficient levels of service or a sewer trunk line extension to a previously undeveloped area. This method is appropriate when planned facilities would not serve existing development. Under this method new development funds the expansion of facilities at the standards used for the master facility plan.

System Plan Method

This method calculates the fee based on the ratio of the value of existing facilities plus the cost of planned facilities divided by demand from existing plus new development:

$$\frac{\text{Value of Existing Facilities} + \text{Cost of Planned Facilities}}{\text{Existing} + \text{New Development Demand}} = \$/\text{unit of demand}$$

This method is useful when planned facilities need to be analyzed as part of a system that benefits both existing and new development. It is difficult, for example, to allocate a new fire station solely to new development when that station will operate as part of an integrated system of fire stations that work together to achieve the desired level of service. Police substations, civic centers, and regional parks are examples of similar facilities.

The system plan method ensures that new development does not pay for existing deficiencies. Often, facility standards based on policies such as those found in General Plans are higher than existing facility standards. This method enables the calculation of the existing deficiency required to bring existing development up to the policy-based standard. The local agency must secure non-fee funding for that portion of planned facilities, required to correct the deficiency, to ensure that new development receives the level of service funded by the impact fee.

Calculating the Fee Schedule

At its simplest, the fee schedule uses the cost per unit of demand discussed in the last subsection to generate the fee schedule. This unit cost is multiplied by the demand associated with a new development project to calculate the fee for that project. The fee schedule uses different demand measures by land use category to provide a reasonable relationship between the type of development and the amount of the fee. We are familiar with a wide range of methods for identifying appropriate land use categories and demand measures depending on the study.

Related Approach Issues

Funding and Financing Strategies

In our experience, one of the most common problems with impact fee programs and with many CIPs is that the program or plan is not financially constrained to anticipated revenues. The result is a “wish list” of projects that generate community expectations that often cannot be fulfilled. Our approach is to integrate the impact fee program into the local agency’s existing CIPs while encouraging those plans to be financially constrained to available resources. We clearly state the cost of correcting existing deficiencies, if any, to document the relationship between the fee program and the need for additional non-fee funding.

We can also address one of the most significant drawbacks of an impact fee program – the inability to support conventional public debt financing, so projects can be built before all fee revenues have been received. In collaboration with financial advisors and underwriters, we have developed specific underwriting criteria so that fees can be used to pay back borrowing if another source of credit exists. Typically, this approach involves the use of Certificates of Participation or revenue bonds that are calibrated so that they can be fully repaid using impact fee revenues.

Economic Development Concerns

The development community often is concerned that fees and other exactions will become too high for development to be financially feasible under current market conditions. Local agencies have several strategies to address this concern, including:

- Conducting an analysis of the total burden placed on development, by exactions, to see if feasibility may be compromised by the proposed fees;
- Gathering similar data on the total fee burden imposed by neighboring or competing jurisdictions;
- Developing a plan for phasing in the fees over several years to enable the real estate market to adjust;
- Providing options for developers to finance impact fees through assessments and other types of financing districts; and
- Imposing less than the maximum justified fee.

If less than the maximum justified fee is imposed, we will work with staff to identify alternative revenues sources for the CIP. The CIP should remain financially feasible to maintain realistic expectations among developers, policymakers, and the public.

Stakeholder Participation

Stakeholder participation throughout the study supports a successful adoption process. Our approach is to create consensus first, around the need for facilities based on agreed upon facility standards. Second, we seek consensus around a feasible funding strategy for these needs, leading to an appropriate role for impact fees.

Gaining consensus among various groups requires a balanced discussion of both economic development and community service objectives. Often, our approach includes formation of an advisory committee to promote outreach to and input from the development community and other stakeholders. We have extensive experience facilitating meetings to explain the program and gain input.

Program Implementation

Fee programs require a certain level of administrative support for successful implementation. Our final report will include recommendations for appropriate procedures, such as:

- Regularly updating development forecasts;
- Regularly updating fees for capital project cost inflation;
- Regularly updating capital facility needs based on changing demands;
- Developing procedures for developer credits and reimbursements; and
- Including an administrative charge in the fee program.

Work Plan

Willdan will work with the City to update its impact fees consistent with the Mitigation Fee Act and other relevant laws. We want to ensure that our scope of services is responsive to the City's needs and specific local circumstances. We will work with the City to revise our proposed scope based on input prior to approval of a contract, and as needed during the course of the study.

- Park Land
- Bus Shelter
- Street and Transportation
- General Government Facilities
- Art in Public Places
- Sanitary District Connection Fee
- Library Facilities
- Park Improvement
- Police Facilities
- Fire Facilities
- Water Connection
- Electric Infrastructure (*potential*)

Task 1: Identify Policy Issues	
Objective:	Identify and discuss potential policy issues raised by the study. Kick-off meeting with staff to review data needs, policy issues, schedule and discuss potential additional fee categories.
Description:	Review agency documents related to existing capital planning policies and funding programs including existing impact fees. Bring policy issues to City staff's attention, as appropriate, during the project and seek guidance prior to proceeding. Potential policy issues include: ▪ Previous studies; ▪ Changes in implementation resulting from AB 602; ▪ Changes in approach and nexus findings necessary to comply with AB 602; ▪ Potential new impact fees for consideration; ▪ Adequacy of General Plan and other public facility planning policies (e.g., level of service standards); impact fee ordinances and resolutions, and prior nexus studies; ▪ Availability of existing public facility master plans and CIPs to identify needed facilities; ▪ Types of facilities to be funded by each fee; ▪ Land use categories for imposition of fees; ▪ Nexus approach to determining facility standards; ▪ Nexus approach to allocating cost burden among land uses, including need for separate fee zones; ▪ Potential alternative funding sources, if needed; ▪ Funding existing deficiencies, if identified; ▪ Potential fee zones or subareas to tailor the fee program or address other policy considerations; and ▪ Implementation concerns and strategies.
Deliverables:	(1) Information requests; and (2) revised project scope and schedule (if needed).

Task 2: Identify Existing Development and Future Growth	
Objective:	(1) Identify estimates of existing levels of development; and (2) identify a projection of future growth consistent with current planning policy.
Description:	Identify base year for estimating existing levels of development and for calculating facility standards based on existing facility inventories (see Task 3). Include entitled development that would be exempt from fee program. Consult with City staff to identify growth projections to a defined long-range planning horizon (10 to 30 years). Projections provide a basis for determining the facilities needed to accommodate growth (see Task 4). Consider projections from regional metropolitan planning agencies and other available sources. Develop approach for converting land use data to measure of facility demand.

For example, identify population and employment density factors to convert population and employment estimates to dwelling units and building square footage. Select appropriate approach for each impact fee based on:

- Available local data on facility demand by land use category;
- Approaches used by other agencies; and
- Support for other agency policy objectives.

Changes to estimates and projections during subsequent tasks could cause unanticipated effort and require an amendment to the scope of services and budget. Obtain approval of estimates and projections from City staff prior to proceeding.

Task 3: Determine Facility Standards	
Note:	Conduct Tasks 3, 4, and 5 separately for each intended facility and fee type. Conduct tasks concurrently because of the effect of facility standards (Task 3), facility needs (Task 4), and alternative funding (Task 5) on the fee calculation.
Objective:	Determine standards to identify facilities required to accommodate growth.
Description:	Identify and evaluate possible facility standards depending upon the facility type, current facility inventory data, and available facility planning documents. Consider use of: (1) adopted policy standards (e.g., General Plan, master facility plans); (2) standards derived from existing facility inventories; or (3) standards derived from a list of planned facility projects. City staff to provide policies, inventories, and project lists. Willdan will work with the City to identify additional costs that might be eligible for funding by the DIF.
Task 4: Determine Facilities Needs and Costs	
Objective:	Identify the type, amount and cost of facilities required to accommodate growth and correct deficiencies, if any.
Description:	Quantify total planned facilities based on growth projection from Task 2 and facility standards from Task 3. Express planned facilities in general quantities such as acres of parkland, or as a specific list of capital projects from a master facility plan. Location of planned facilities may or may not be specified. If only a general description of planned facilities is available through the planning horizon, City staff to provide a list of specific capital projects for use of fee revenues during the short term (e.g., five years). Distinguish between: (1) facilities needed to serve growth (that can be funded by impact fees); and (2) facilities needed to correct existing deficiencies (that cannot be funded by impact fees). Use one of three cost allocation methods (existing inventory, system plan, or planned facilities). Gather planning-level data on new facilities costs based on lump sum project cost estimates, or unit costs and project quantities (acres, building square feet, lane miles, etc.). Consider recent City experience, local market data such as land transactions, and consultant team experience from prior projects. Inflate older cost estimates to base year using appropriate cost indices. The revised facility costs will form the basis of the capital improvement program needed for compliance with AB 602. <i>This scope of work does not include additional engineering analysis, including traffic engineering, to identify total facility needs, existing deficiencies, or cost estimates. Any such engineering/design work can be provided under a separate contract with Willdan Engineering or a third party. However, Willdan can use rough descriptions and comparables to calculate a reasonable cost estimate sufficient for use in the DIF study.</i>
Task 5: Identify Funding and Financing Alternatives	
Objective:	Determine the extent of alternative (non-fee) funding available for new facilities.
Description:	If impact fees are going to only partially fund a capital project, the <i>Mitigation Fee Act</i> requires the agency report on the anticipated source and timing of the additional funding every five years.

There are two types of alternative funding sources that we will identify:

1. Funding from non-impact fee sources to correct existing deficiencies; and
2. Funding from new development other than impact fees that must be credited against new development's impact fee contributions, possibly including taxes paid to finance facilities.

Identify anticipated alternative funding based on information from City staff or note that funds are still to be identified based on a list of probable funding alternatives. If fees will fund debt service include financing costs in the total cost of facilities.

Assume facilities to be funded predominantly on a pay-as-you-go basis. Scope does not include a cash flow analysis to analyze effect of timing of fee revenues on financing costs.

Task 6:	Comparison Analysis
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Objective: Provide a comparison of the current and proposed impact fees to those of comparable/surrounding jurisdictions in Riverside County.

Description: Willdan will compare a total of five Riverside County jurisdictions to be selected by the City.

Typically, Willdan prepares an analysis of fees charged to a series of prototype developments (such as residential, retail, etc.) to provide an "apples to apples" comparison, but the exact methodology will be determined in consultation with the City.

Task 7:	Calculate Fees and Prepare Report
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Objective: Provide technically defensible fee report that comprehensively documents project assumptions, methodologies, and results.

Description: Generate fee schedule to apportion facility costs to individual development projects. Use facility costs per unit of demand multiplied by demand by land use category based on data developed in prior tasks.

Prepare draft report tables for City staff to review, that document each step of the analysis, including schedule of maximum justified fees by facility type land use category and all other requirements of the Mitigation Fee Act.

Following one (1) round of comments from City staff on the quantitative analysis and fee schedules, prepare administrative draft report. The report will contain all required calculations and assumptions. In addition, Willdan will provide the City with best practices regarding a range of policy decisions for consideration by the City Council, including incentives for affordable housing production and considerations of the impact of fees on development in the City.

Following one (1) round of comments on administrative draft, prepare public draft for presentation to interested parties, the public and elected officials. This public review draft will be presented and public stakeholder meetings and at a Council informational session. Prepare final report, if necessary, based on comments received on the public draft report. If requested, post the report on our website for public access. Note that as of January 2022, the Nexus study is adopted separately from the fees, and with a 30-day notice.

Fees will be calculating residential land uses in compliance with AB 602.

Provide legal counsel with copies of fee resolutions and ordinances used by other jurisdictions.

Deliverables: We will provide up to two (2) bound copies of the draft report, one (1) unbound copy, one (1) Microsoft Word copy; and up to two (2) bound copies of the final report.

Task 8:	Meetings
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Objective: The project manager or other necessary Willdan staff will attend project meetings. A member of the Impact Fee project team will attend up to four (4) in-person meetings and presentations throughout the City's engagement. Phone conferences are not considered meetings for the purposes of this scope.

Optional: Optional stakeholder and Council meetings may be requested by the City.

City of Coachella, CA

Staff Support

To complete our tasks, we will need the cooperation of City of Coachella staff. We suggest that the City assign a key individual to represent the City as the project manager who can function as our primary contact. We anticipate that the City's project manager will:

- Coordinate responses to requests for information;
- Coordinate review of work products; and
- Help resolve policy issues.

Willdan will rely on the validity and accuracy of the City's data and documentation to complete the analysis. Willdan will rely on the data as being accurate without performing an independent verification of accuracy and will not be responsible for any errors that result from inaccurate data provided by the client or a third party.

Project Disclaimer

Willdan is a registered municipal advisory firm with the U.S. Securities and Exchange Commission ("SEC"), as such the City of Coachella represents, acknowledges, and agrees that Willdan is not acting as a "municipal advisor" (as defined by the SEC), to the City, in any capacity as it relates to this Development Impact Fee Study proposal.

- (i) The City uses, or may use, the services of one or more municipal advisors registered with the SEC to advise it in connection with municipal financial products and the issuance of municipal securities;
- (ii) The City is not looking to Willdan to provide, and the City shall not otherwise request or require Willdan to provide any advice or recommendations with respect to municipal financial products or the issuance of municipal securities (including any advice or recommendations with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues);
- (iii) The provisions of this proposal and the services to be provided hereunder as outlined in the scope of services are not intended (and shall not be construed) to constitute or include any municipal advisory services within the meaning of Section 15B of the U.S. Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations adopted thereunder;
- (iv) For the avoidance of doubt and without limiting the foregoing, in connection with any revenue projections, cash-flow analyses, feasibility studies and/or other analyses Willdan may provide the City with respect to financial, economic or other matters relating to a prospective, new or existing issuance of municipal securities of the City, (A) any such projections, studies and analyses shall be based upon assumptions, opinions or views (including, without limitation, any assumptions related to revenue growth) established by the City, in conjunction with such of its municipal, financial, legal and other advisers as it deems appropriate; and (B) under no circumstances shall Willdan be asked to provide, nor shall it provide, any advice or recommendations or subjective assumptions, opinions or views with respect to the actual or proposed structure, terms, timing, pricing or other similar matters with respect to any municipal financial products or municipal securities issuances, including any revisions or amendments thereto; and
- (v) Notwithstanding all of the foregoing, the City recognizes that interpretive guidance regarding municipal advisory activities is currently quite limited and is likely to evolve and develop during the term of the potential engagement and, to that end, the City will work with Willdan throughout the term of the potential Agreement to ensure that the Agreement and the services to be provided by Willdan hereunder, is interpreted by the parties, and if necessary amended, in a manner intended to ensure that the City is not asking Willdan to provide, and Willdan is not in fact providing or required to provide, any municipal advisory services.

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice the City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform the City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

City of Coachella					
Development Impact Fee					
Fee Proposal					
			J. Edison Principal-in- Charge	C. Villarreal Project Manager	<u>Total</u>
			\$ 300	\$ 270	Hours Cost
Scope of Services					
Task 1:	Identify Policy Issues	18.0	26.0	44.0	\$ 12,420
Task 2:	Identify Existing Development and Future Growth	14.0	30.0	44.0	12,300
Task 3:	Determine Facility Standards	16.0	30.0	46.0	12,900
Task 4:	Determine Facilities Needs and Costs	16.0	28.0	44.0	12,360
Task 5:	Identify Funding and Financing Alternatives	12.0	24.0	36.0	10,080
Task 6:	Fee Comparison	10.0	24.0	34.0	9,480
Task 7:	Calculate Fees and Prepare Report	18.0	34.0	52.0	14,580
Task 8:	Meetings	18.0	24.0	42.0	11,880
Total – Development Impact Fee		122.0	220.0	342.0	\$96,000

Willdan Financial Services Hourly Rate Schedule		
Position	Team Member	Hourly Rate
Vice President / Director		\$310
Managing Principal	James Edison	\$300
Principal Consultant	Carlos Villarreal	\$270
Senior Project Manager		\$250
Project Manager		\$210
Senior Project Analyst		\$150
Senior Analyst		\$135
Analyst II		\$120
Analyst I		\$110

EXHIBIT C

Activity Schedule

