

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ___ day of _____, 2013, by and between **WILLDAN FINANCIAL SERVICES (“WFS”)**, a corporation, and the **CITY OF LEESBURG, FLORIDA**, hereinafter referred to as “Client.”

WHEREAS, Client desires to employ WFS to furnish ongoing professional services in connection with **Fire Assessment Analysis**, hereinafter referred to as the “Project.”

NOW, THEREFORE, in consideration of the mutual premises, covenants and conditions herein contained, the parties agree as follows:

SECTION I – BASIC SERVICES

WFS shall provide to the Client the basic services described in detail in “Exhibit A,” Letter Proposal, attached hereto and incorporated herein by this reference.

SECTION II – ADDITIONAL SERVICES

If authorized, WFS shall furnish additional services, which are in addition to the basic services. To the extent that the additional services have been identified in this Agreement, they are itemized in “Exhibit A” and will be paid for by Client as indicated in Section III hereof. As further additional services are requested by Client, this Agreement may be modified and subject to mutual consent by execution of an addendum by authorized representatives of both parties, setting forth the additional scope of services to be performed, the performance time schedule and the compensation for such services.

SECTION III – COMPENSATION

WFS shall be compensated for basic services rendered under Section I, as in accordance with the terms and conditions indicated in “Exhibit A,” Letter Proposal; and WFS will be compensated for any additional services rendered under Section II as more particularly described in a fully approved and executed addendum to this Agreement. If no addendum is executed, then WFS shall be compensated at its then-prevailing hourly rates for such additional services.

WFS may submit monthly statements for basic and additional services rendered. It is intended that Client will make payments to WFS within thirty (30) days of invoice. All invoices not paid within thirty (30) days shall bear interest at the rate of one and one-half (1½) percent per month or the then-legal rate allowed.

SECTION IV – INDEMNITY; INSURANCE REQUIRED

A. **Indemnity.** WFS shall indemnify and hold harmless Client, its officers, officials, directors, employees, designated agents, and appointed volunteers from and against all claims, damages, losses and expenses, including attorney fees, arising out of the performance of the services described herein, caused in whole or in part by the negligent acts, errors, or omissions of WFS, any subconsultant, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence or willful misconduct of Client or Client's officers, agents, or employees.

B. **Insurance.** Without in any way limiting WFS' liability pursuant to the indemnification described above, WFS shall maintain, during the term of this contract, the following insurance:

Coverage	Minimum Limits
General Liability Comprehensive General Liability, including: Premises and Operations Contractual Liability Personal Injury Liability Independent Contractors Liability (if applicable)	\$1,000,000 Combined Single Limit, per occurrence and general aggregate
Automobile Liability Comprehensive Automobile Liability (including owned, non-owned and hired autos)	\$1,000,000 Combined Single Limit, per occurrence
Workers' Compensation and Employer's Liability Workers' Compensation Insurance Employer's Liability	Statutory, \$1,000,000
Professional Liability Professional Liability Insurance	\$1,000,000 per claim and annual aggregate

SECTION V – INDEPENDENT CONTRACTOR STATUS

WFS shall be an independent contractor and shall have responsibility for and control over the details and means of providing the services under this Agreement.

SECTION VI – OWNERSHIP AND MAINTENANCE OF DOCUMENTS

WFS may rely upon the accuracy of any documents provided to WFS by Client. All documents, including without limitation, reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates, schedules, spreadsheets, or other documents furnished by WFS pursuant to this Agreement, regardless of media (e.g., paper, electronic, magnetic, optical, Mylar, etc), are instruments of WFS' services in respect to this Project and not products. All such documents shall remain the property of WFS provided, however, that a copy of the final documents shall be made available to Client upon request. These documents are not intended, nor represented to be suitable for reuse by Client or any others on extensions of this Project or on any other project. These documents shall not be changed or reused without the prior written consent of WFS. Any modification or reuse without specific written verification and adoption by WFS for the specific purposes intended will be at user's sole risk. Client agrees to save, keep and hold harmless WFS from all damages, costs or expenses in law and equity including costs of suit and attorneys' fees resulting from such unauthorized reuse. Client further agrees to compensate WFS for any time spent or expenses incurred by WFS in defense of any such claim, in accordance with WFS' prevailing fee schedule.

Client acknowledges that its right to utilize the services and instruments of services of WFS will continue only so long as Client is not in default of the terms and conditions of this Agreement and Client has performed all obligations under this Agreement. Client further acknowledges that WFS has the unrestricted right to use the services provided pursuant to this Agreement, as well as to all instruments of service provided pursuant to this Agreement.

Client agrees not to use or permit any other person to use any instruments of service prepared by WFS, which are not final and which WFS does not sign. Client agrees to be liable for any such use of non-final instruments of service not signed, stamped or sealed by WFS and waives liability against WFS for their use.

WFS' records, documents, calculations, test information and all other instruments of service shall be kept on file in legible form for a period of not less than two (2) years after completion of the services covered in this Agreement.

SECTION VII – SUSPENSION OF SERVICES

Client may, at any time, by thirty (30) days' written notice, suspend further performance by WFS. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and WFS shall be paid for all services performed and reimbursable expenses incurred prior to the suspensions date.

SECTION VIII – TERMINATION

Either party may terminate this Agreement at any time by giving thirty (30) days' written notice to the other party of such termination. If this Agreement is terminated as provided herein, WFS will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of WFS covered by this Agreement, less payments of compensation previously made.

SECTION IX – COMPLIANCE WITH LAW

Each party hereto will use reasonable care to comply with applicable laws in effect at the time the services are performed hereunder, which to the best of their knowledge, information and belief apply to their respective obligations under this Agreement.

SECTION X – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the successors and assigns of the parties; but either party, without written consent of the other party, shall not assign it.

SECTION XI – ATTORNEYS' FEES

In the event that any judgment is entered in any action upon this Agreement, the party hereto against whom such judgment is rendered agrees to pay the amount equal to the reasonable attorneys' fees of the prevailing party in such action and that such amount may be added to and made a part of such judgment.

SECTION XII – ALTERNATIVE DISPUTE RESOLUTION

If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

A. A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

B. If, within thirty (30) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually-acceptable neutral person not affiliated with either of the parties (the "neutral"), seeking assistance in such regard if they have been unable to agree upon such appointment within forty (40) days from the initial meeting. The parties shall share the fees of the neutral equally.

C. In consultation with the neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR") by which they will attempt to resolve the dispute, and a time and place for the ADR to be held, with the neutral making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than sixty (60) days after selection of the neutral) if the parties have been unable to agree on any of such matters within twenty (20) days after initial consultation with the neutral.

D. The parties agree to participate in good faith in the ADR to its conclusion, as designated by the neutral. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration or a private adjudicator, or either party may seek an adjudicated resolution through the appropriate court.

SECTION XIII – RECORDS

Records of WFS' direct labor costs, payroll costs, and reimbursable expenses pertaining to the Project covered by this Agreement will be kept on a generally recognized accounting basis and made available during normal business hours upon reasonable notice.

WFS' records will be available for examination and audit if and as required.

SECTION XIV – MISCELLANEOUS PROVISIONS

This Agreement is subject to the following special provisions:

A. The titles used in this Agreement are for general reference only and are not a part of the Agreement.

B. This Agreement shall be interpreted as though prepared by both parties.

C. Any provision of this Agreement held to violate any law shall be deemed void, and all remaining provisions shall continue in full force and effect.

D. This Agreement shall be interpreted under the laws of the State of Florida.

E. This Agreement comprises a final and complete repository of the understandings between the parties and supersedes all prior or contemporary communications, representations, or agreements, whether oral or written, relating to the subject matter of this Agreement.

F. Any notices given pursuant to this Agreement shall be effective on the third business day after posting by first class mail, postage prepaid, to the address appearing immediately after the signatures below.

G. WFS shall not be liable for damages resulting from the actions or inactions of governmental agencies, including, but not limited to: permit processing, environmental impact reports, dedications, General Plans, and amendments thereto; zoning matters, annexations, or consolidations; use or Conditional Use Permits; project or plan approvals; and building permits.

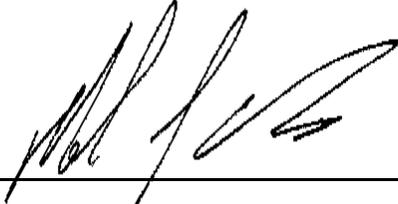
H. WFS' waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any subsequent breach of any other term, condition, or covenant.

I. Client acknowledges that WFS is not responsible for the performance of services by third parties, provided that said WFS has not retained third parties.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions, and provisions above stated, as of the day and year first above written.

WILLDAN FINANCIAL SERVICES

CITY OF LEESBURG, FLORIDA

By:  _____

By: _____

Mark J. Risco

Raymond S. Sharp

Title: President and Chief Executive Officer

Title: City Manager

Address: 27368 Via Industria, Suite 110

Address: 501 West Meadow Street

Temecula, California 92590-3661

Leesburg, Florida 34748