

CITY OF WILDOMAR



REQUEST FOR PROPOSALS

On-Call Contract Planning/CEQA Staff Augmentation Services

**Proposal Due No Later Than:
Thursday, May 4, 2017
(2:00 pm PST)**

City of Wildomar - Planning Department
Matthew C. Bassi, Planning Director
23873 Clinton Keith Road, Suite 201
Wildomar, CA 92595
(951) 677-7751, Ext. 213
mbassi@cityofwildomar.org

SECTION 1. SCOPE OF SERVICES

The City of Wildomar is now accepting proposals from qualified Planning/CEQA consulting firms for “On-Call Planning/CEQA Augmentation” services. The winning consultant firm will become the department’s sole/primary planning department staff support team serving as an extension of the Planning Department. The City is looking for a single-source full service firm that provides local government current/advanced planning and environmental services under one roof.

The term of the contract period shall be for an initial period of five (5) years from the date the contract is signed and executed. The City reserves the right to extend the contract for an additional three (3) year period provided the Consultant Firm has adequately met the roles and responsibilities to the City outlined in this RFP.

Special Note: Firms that do not provide contractual work for private developers/applicants (especially in the City of Wildomar) is highly preferred. Proposals with subconsultants to the primary firm will not be accepted.

Specifically, the Planning Department is looking at the minimum staffing support services and positions as noted below. Additional staffing opportunities may be needed depending on the City’s work load.

Assistant/Associate Planner - This position will require about 8 – 16 hours per week to assist with zoning counter/phone duties, and plan check/code compliance reviews, including some limited minor project entitlement reviews.

Senior/Principal Planner – This position will require about 10 to 20 hours per week (on average) as needed to assist the planning department with the processing of development projects as part of the city’s development review process. This is a mid-level staff position that will serve as a project manager able to take a project from submittal to public hearing with limited supervision. The position will require coordination with other city departments, county agencies and applicant’s as part of the city’s development review process. It will be required that the person be available locally for project review meetings at city hall and other meetings related to the development review process. The position will also require preparation of correspondence, staff reports, resolutions, ordinances and conditions of approval so good writing skills is necessary. In addition, the person will be required to make public presentations before the Planning Commission and City Council.

Planning Manager - This position will serve as the main contract manager reporting to the Planning Director and will be responsible for supervising the consultant team identified above. The manager is required to have extensive current/advanced planning and CEQA experience and an excellent understanding of local and state laws, and will assist the Planning Director with special planning projects (i.e., code amendments, specific plans, etc.). This position will also be responsible for the preparation and coordination of CEQA documents (i.e., ND’s, MND’s, & EIR’s) for private development

projects as assigned by the Planning Director, as well as supervising the planning department's CEQA review process for city initiated projects. Additional work to be performed will include peer reviews of technical studies and overseeing the CEQA work of the city's additional on-call CEQA consultants. The Planning Manager will also participate in weekly phone calls with the Planning Director to ensure regular communication and project integrity, including in-person meetings as requested by the Department Director, subject to availability.

In addition to the above, the consultant staff/team shall possess the following qualities:

1. Take ownership in the project when representing the City in coordinating and managing the full spectrum of tasks and responsibilities to process discretionary development applications.
2. Review and apply applicable sections of the City's general plan, zoning ordinance, subdivision ordinance, city policies, and state planning, zoning and development laws.
3. Possess excellent design review and architectural skills related to land use planning and development review.
4. Demonstrate excellent written and oral communication skills.
5. Confer with and advise contractors, developers, community groups, and the general public.
6. Understanding of CEQA and its implementation related to discretionary case processing.
7. Coordinate comments among staff, consultants and the public as part of the City's development review process, and convey written comments to the applicant in a concise and organized manner.
8. Facilitate input from staff, consultants and the public on development applications and resolve competing and/or conflicting interests so that the City speaks with one voice.
9. Maintain on-going and open communication with the Planning Director.
10. Ensure overall project schedules are maintained.
11. Prepare staff reports, resolutions, ordinances and public notices related to discretionary development applications for review by the Planning Director, City Attorney, Planning Commission, and City Council as required.

SECTION 2. GUIDELINES FOR PROPOSAL

The following guidelines are provided for standardizing the preparation and submission of proposals. The intent is to assist respondents in the preparation of their submissions and to assist the City by simplifying the review process providing standards for comparison of submissions. Statements submitted in response to this RFP shall include a complete response to the requirements in this section in the order presented. Statements of the respondent's capability to satisfy the intent and requirements of this RFP should be straightforward.

Proposal shall contain the following information in the order listed:

1. Introductory letter:

The introductory letter should state the prime firm and include the firm's name submitting the proposal, their mailing address, telephone number, and contact name. The letter shall address the firm's understanding of the project based on this RFP and any other information the firm has gathered. Include a statement discussing the firm's interest and qualifications for this type of work. The letter shall be signed by a principal authorized to commit the firm contractually.

2. Qualifications and Experience:

Describe the proposed contract Planner(s) capability for actually undertaking and performing public agency processing of discretionary development applications. List types and locations of similar work performed by the Contract Planner(s) in the last five (5) years that best characterizes the quality and past performance. Include names and current phone numbers for contact on work quality and performance. References may be contacted as part of the selection process.

3. Conflict of interest Statement:

The firm shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract.

4. Supportive Information/References:

This section may include graphs, charts, photos, resumes, references, etc. in support of the Contract Planner's qualifications.

5. Consulting Services Contract:

The City of Wildomar standard professional services contract is included as Attachment B to this Request for Proposals. The proposing firm shall identify any objections to and/or request changes to the standard contract language in this section.

6. Fees/Billing Rates:

This section shall be part of the firm's proposal and shall include a summary of staff positions, billing classification, and hourly billing rate for each member of the proposed consultant team and reimbursement levels for direct expenses for the requested products and services outlined in the Scope of Work. No cost

increases shall be passed on to the city after the proposal has been submitted. Tax, if applicable, is to be listed as a separate line item. The City will not pay for the firm's travel expenses to perform the duties outlined in this RFP. Any such line item in the proposal will be grounds for rejection of said proposal.

Submission Requirements:

All proposals shall include the following information, organized as separate sections of the proposal. The proposal should be concise and to the point.

1. Services to be Provided:

Specify the type of services to be provided: discretionary development applications, including general plan amendments, zone changes, development agreements specific plans, use permits, design review, variances, tentative subdivision maps, site plans and improvement plans.

2. Contractor Identification:

Provide the name of the firm, the firm's principal place of business, the name and telephone number of the contact person and company tax identification number.

3. Resume:

Submit a resume of the proposed Planning Consultant(s) and Engineering Subconsultant and a list of complex discretionary development applications that the planner personally managed. Include the project name, location, entitlement request, land use, sq. ft., dwelling units, acres, CEQA experience, start and completion dates for entitlement, decision maker outcome.

4. Client References:

Provide a minimum three (3) client references. References should be California cities or other large public sector entities. Provide the designated person's name, title, organization, address, telephone number, and the project(s) that were completed under that client's direction.

SECTION 3. SELECTION CRITERIA

The following criteria will be considered, although not exclusively, in determining which firm is hired.

1. Qualifications of the Planning Consultant with prior history in the successful completion of similar consulting contracts, especially within Riverside County (30%);
2. Experience and knowledge of the current political and environmental climate in the City of Wildomar and Riverside County (20%);
3. Demonstrated ability to complete tasks on time and within budget (20%);
4. References and recommendations (15%); and
5. Ability to respond on short notice (15%)

Qualification/Inspection/Interviews:

Proposals will only be considered from firms normally engaged in providing contract planning services as specified herein. The City reserves the right to inspect the firm(s) facilities, products, personnel, and organization at any time, or to take any other action necessary to determine firm(s) ability to perform to the work required herein. The City reserves the right to reject proposals where evidence or evaluation is determined to indicate inability to perform. The City reserves the right to interview any or all responding firms and/or to award a contract without conducting interviews.

SECTION 4. PROPOSAL SUBMITTAL INFORMATION

Required hard copies of the Proposal shall be printed double sided, submitted on 8-1/2" x 11" paper, with a 10 -11-point font only. Pages shall be numbered, tabbed, and presented in a comb-bound format. Proposal shall not exceed a total of 30 pages (including all necessary resumes and references). Two (2) signed original hard copies and one (1) CD (Pdf) of the proposal package should be submitted to the Wildomar Planning Department by [Thursday, May 4, 2017 by 2:00 PM.](#)

Proposals shall be submitted in a sealed envelope clearly marked City of Wildomar Contract Planning Services and addressed to:

**CITY OF WILDOMAR
Planning Department
Attention: Matthew C. Bassi, Planning Director
23873 Clinton Keith Road, Suite 201
Wildomar, CA 92595**

Questions regarding this RFP for clarification purposes only should be directed by email to Matthew Bassi, Planning Director at mbassi@cityofwildomar.org. Material changes, if any, to the scope of services or proposal procedures will only be transmitted via written addendum by the City.

Late Proposals:

Proposals arriving after the specified date and time will not be considered, nor will late proposals be opened. No Facsimiles will be accepted. Each firm assumes sole responsibility for timely submission and accuracy of its proposal.

Withdrawal or Modifications of Proposals:

Any proposal may be withdrawn or modified by a written request signed by the firm and received by the Planning Department prior to the final time and date for the receipt of proposals. Once the deadline is past, firms are obligated to fulfill the terms of their proposal.

Proposal Acceptance and Rejection:

The City of Wildomar reserves the right to accept any proposal, to reject any and all proposals if the rejection is deemed in the best interest of the City, to call for new proposals if deemed to be in the best interest of the City.

Proposal Evaluation and Award:

Evaluation will be made on the basis of the criteria noted above. Award shall be made to the firm whose proposal is determined to be the most advantageous to the City, taking into consideration work experience, billing rates and adherence to the included specifications. The City will enter into a Consultant Services Agreement with the successful firm, for the specified products, services, and installation. Nothing herein shall obligate the City to award a contract to any responding firm.

SECTION 5. PAYMENT/BILLINGS:

The firm will be responsible for submitting weekly “project management reports” that identify all work done by each staff person broken down by project number as performed during the previous week. Said report must be submitted to the Planning Director by 2 pm each Monday following the previous week. The Firm(s) will also prepare monthly invoices for all work completed in the preceding calendar month to be submitted no later than 15th day of the following month.

SECTION 6. CONTRACT TERM:

The Contract shall commence upon signature and execution and will be in full-force and effect for a five (5) year period. The City reserves the right to extend the contract annually for an additional three (3) year period provided the Consultant Firm has adequately met the roles and responsibilities to the City as outlined in this RFP.

ATTACHMENTS:

- A. City of Wildomar standard professional services contract

STANDARD AGREEMENT FOR PROFESSIONAL SERVICES

By and Between

**THE CITY OF WILDOMAR,
a municipal corporation**

and

**AGREEMENT FOR SERVICES
BETWEEN
THE CITY OF WILDOMAR, CALIFORNIA
AND**

This Agreement for Services ("Agreement") is entered into as of this ____ day of _____, 2017 by and between the City of Wildomar, a municipal corporation ("City") and _____, a _____ ("Service Provider"). City and Service Provider are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by **[describe process used, i.e. request for qualifications, request for quotations, request for proposals, direct negotiation, informal quotes]** the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Service Provider, following submission of a **[proposal, quote, bid, etc.]** for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Wildomar's Municipal Code, City has authority to enter into this Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Service Provider for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1 TERM OF AGREEMENT.

Subject to the provisions of Section 20 "Termination of Agreement" of this Agreement, the Term of this Agreement is for **[__ years/months]** commencing on the date first ascribed above.

SECTION 2 SCOPE OF SERVICES & SCHEDULE OF PERFORMANCE.

Scope of Services. Service Provider agrees to perform the services set forth in Exhibit "A" "Scope of Services" (hereinafter, the "Services") and made a part of this Agreement by this reference.

Schedule of Performance. The Services shall be completed pursuant to the schedule specified in Exhibit "A." Should the Services not be completed pursuant to that schedule, the Service Provider shall be deemed to be in Default of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Service Provider to continue performing the Services.

SECTION 3 ADDITIONAL SERVICES.

Service Provider shall not be compensated for any work rendered in connection with its performance of this Agreement that are in addition to or outside of the Services unless such additional services are authorized in advance and in writing in accordance with Section 26 "Administration and Implementation" or Section 28 "Amendment" of this Agreement. If and when such additional work is authorized, such additional work shall be deemed to be part of the Services.

SECTION 4 COMPENSATION AND METHOD OF PAYMENT.

Subject to any limitations set forth in this Agreement, City agrees to pay Service Provider the amounts specified in Exhibit "B" "Compensation" and made a part of this Agreement by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed _____ dollars (\$_____), unless additional compensation is approved in writing in accordance with Section 26 "Administration and Implementation" or Section 28 "Amendment" of this Agreement.

Each month Service Provider shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-Service Provider contracts. Sub-Service Provider charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. If the compensation set forth in subsection (a) and Exhibit "B" include payment of labor on an hourly basis (as opposed to labor and materials being paid as a lump sum), the labor category in each invoice shall include detailed descriptions of task performed and the amount of time incurred for or allocated to that task. City shall independently review each invoice submitted by the Service Provider to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Service Provider for correction and resubmission.

Except as to any charges for work performed or expenses incurred by Service Provider which are disputed by City, City will use its best efforts to cause Service

Provider to be paid within forty-five (45) days of receipt of Service Provider's correct and undisputed invoice.

Payment to Service Provider for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Service Provider.

SECTION 5 INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Service Provider's work under this Agreement, either during performance or when completed. City shall reject or finally accept Service Provider's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Service Provider's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Service Provider's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 16 "Indemnification" and Section 17 "Insurance."

SECTION 6 OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Service Provider. Upon completion, expiration or termination of this Agreement, Service Provider shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Service Provider in the course of providing the Services pursuant to this Agreement, Service Provider's guarantees and warranties in Section 9 "Standard of Performance" of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7 SERVICE PROVIDER'S BOOKS AND RECORDS.

Service Provider shall maintain any and all documents and records demonstrating or relating to Service Provider's performance of the Services. Service Provider shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Service Provider pursuant to this Agreement. Any and all such documents or records shall be

maintained for three (3) years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Service Provider's address indicated for receipt of notices in this Agreement.

Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Service Provider's business, City may, by written request, require that custody of such documents or records be given to the City. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 8 INDEPENDENT CONTRACTOR.

Service Provider is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Service Provider shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

The personnel performing the Services under this Agreement on behalf of Service Provider shall at all times be under Service Provider's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Service Provider or any of Service Provider's officers, employees, or agents except as set forth in this Agreement. Service Provider shall not at any time or in any manner represent that Service Provider or any of Service Provider's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

Neither Service Provider , nor any of Service Provider's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Service Provider expressly waives any claim Service Provider may have to any such rights.

SECTION 9 STANDARD OF PERFORMANCE.

Service Provider represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Service Provider shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services. In meeting its obligations under this Agreement, Service Provider shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to the Services required of Service Provider under this Agreement. In addition to the general standards of performance set forth in this section, additional specific standards of performance and performance criteria may be set forth in Exhibit "A" "Scope of Work" that shall also be applicable to Service Provider's work under this Agreement. Where there is a conflict between a general and a specific standard of performance or performance criteria, the specific standard or criteria shall prevail over the general.

SECTION 10 COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Service Provider shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Service Provider shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Service Provider to comply with this section.

SECTION 11 PREVAILING WAGE LAWS

It is the understanding of City and Service Provider that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12 NONDISCRIMINATION.

Service Provider shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13 UNAUTHORIZED ALIENS.

Service Provider hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Service Provider so employ such unauthorized aliens for the performance of the Services, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Service Provider hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

SECTION 14 CONFLICTS OF INTEREST.

Service Provider covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Service Provider's performance of the Services. Service Provider further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Service Provider agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

City understands and acknowledges that Service Provider is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Service Provider is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

City understands and acknowledges that Service Provider will perform non-related services for other governmental agencies and private Parties following the completion of the Services under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 15 CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

All information gained or work product produced by Service Provider in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Service Provider. Service Provider shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

Service Provider, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work

performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Service Provider gives City notice of such court order or subpoena.

If Service Provider, or any officer, employee, agent or subcontractor of Service Provider, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Service Provider for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Service Provider's conduct.

Service Provider shall promptly notify City should Service Provider, its officers, employees, agents or subcontractors, be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Service Provider or be present at any deposition, hearing or similar proceeding. Service Provider agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Service Provider. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16 INDEMNIFICATION.

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Service Provider's services, to the fullest extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) arise out of, are a consequence of, or are in any way attributable to, in whole or in part, any negligent or wrongful act, error or omission of Service Provider, or by any individual or entity for which Service Provider is legally liable, including but not limited to officers, agents, employees or sub-contractors of Service Provider, in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Service Provider shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Service Provider, or by any individual or entity for which Service Provider is legally liable,

including but not limited to officers, agents, employees or sub-contractors of Service Provider.

(c) Indemnification from Sub-Service Providers. Service Provider agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each and every sub-Service Provider or any other person or entity involved by, for, with or on behalf of Service Provider in the performance of this Agreement naming the Indemnified Parties as additional indemnitees. In the event Service Provider fails to obtain such indemnity obligations from others as required herein, Service Provider agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Service Provider and shall survive the termination of this Agreement or this section.

(d) Limitation of Indemnification. Notwithstanding any provision of this section to the contrary, design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code Section 2782.8, which limits the liability of a design professional to claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The term "design professional," as defined in Section 2782.8, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

(e) City's Negligence. The provisions of this section do not apply to claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

SECTION 17 INSURANCE.

Service Provider agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Service Provider agrees to provide City with copies of required policies upon request.

SECTION 18 ASSIGNMENT.

The expertise and experience of Service Provider are material considerations for this Agreement. City has an interest in the qualifications and capability of the persons and entities who will fulfill the duties and obligations imposed upon Service Provider under this Agreement. In recognition of that interest, Service Provider shall not assign

or transfer this Agreement or any portion of this Agreement or the performance of any of Service Provider's duties or obligations under this Agreement without the prior written consent of the City. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement pursuant to Section 20 "Termination of Agreement." City acknowledges, however, that Service Provider, in the performance of its duties pursuant to this Agreement, may utilize sub-contractors.

SECTION 19 CONTINUITY OF PERSONNEL.

Service Provider shall make every reasonable effort to maintain the stability and continuity of Service Provider's staff and sub-contractors, if any, assigned to perform the Services. Service Provider shall notify City of any changes in Service Provider's staff and sub-contractors, if any, assigned to perform the Services prior to and during any such performance.

SECTION 20 TERMINATION OF AGREEMENT.

City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Service Provider. In the event such notice is given, Service Provider shall cease immediately all work in progress.

Service Provider may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

If either Service Provider or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Service Provider, or City may terminate this Agreement immediately upon written notice.

Upon termination of this Agreement by either Service Provider or City, all property belonging exclusively to City which is in Service Provider's possession shall be returned to City. Service Provider shall furnish to City a final invoice for work performed and expenses incurred by Service Provider, prepared as set forth in Section 4 "Compensation and Method of Payment" of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 "Compensation and Method of Payment" of this Agreement.

SECTION 21 DEFAULT.

In the event that Service Provider is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Service Provider for any work performed after the date of default. Instead, the City may give notice to Service Provider of the default and the reasons for the default. The notice shall include the timeframe in which Service Provider may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Service Provider is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Service Provider does

not cure the default, the City may take necessary steps to terminate this Agreement under Section 20 "Termination of Agreement." Any failure on the part of the City to give notice of the Service Provider's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 22 EXCUSABLE DELAYS.

Service Provider shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Service Provider. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23 COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Services shall be furnished to Service Provider in every reasonable way to facilitate, without undue delay, the Services to be performed under this Agreement.

SECTION 24 NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City: City of Wildomar
 Attn: City Manager
 23873 Clinton Keith Rd., Suite 201
 Wildomar, CA 92595

To Service Provider: _____

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25 AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Service Provider represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Service Provider to the performance of its obligations hereunder.

SECTION 26 ADMINISTRATION AND IMPLEMENTATION.

This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 28 "Amendment" and the City Manager's contracting authority under the Wildomar Municipal Code.

SECTION 27 BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

SECTION 28 AMENDMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Service Provider and by the City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Wildomar Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 29 WAIVER.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Service Provider shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 30 LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

SECTION 31 ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 32 ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Service Provider and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid and binding.

SECTION 33 SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 34 CONFLICTING TERMS.

Except as otherwise stated herein, if the terms of this Agreement conflict with the terms of any Exhibit hereto, or with the terms of any document incorporated by reference into this Agreement, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first-above written.

CITY OF WILDOMAR

Gary Nordquist
City Manager

ATTEST:

Debbie A. Lee
City Clerk

APPROVED AS TO FORM

Thomas D. Jex
City Attorney

By: _____

By: _____

Its: _____

Its: _____

NOTE: SERVICE PROVIDER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO SERVICE PROVIDER'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF _____

On _____, ____ before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATE OFFICER _____ TITLE(S)	_____ TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL	_____ NUMBER OF PAGES
<input type="checkbox"/> ATTORNEY-IN-FACT <input type="checkbox"/> TRUSTEE(S) <input type="checkbox"/> GUARDIAN/CONSERVATOR	_____ DATE OF DOCUMENT
<input type="checkbox"/> OTHER _____	

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"
SCOPE OF SERVICES

I. Service Provider will perform the following Services:

- A.
- B.
- C.

II. As part of the Services, Service Provider will prepare and deliver the following tangible work products to the City:

- A.
- B.
- C.

III. During performance of the Services, Service Provider will keep the City appraised of the status of performance by delivering the following status reports:

- A.
- B.
- C.

IV. The tangible work products and status reports will be delivered to the City pursuant to the following schedule:

- A.
- B.
- C.

V. Service Provider will utilize the following personnel to accomplish the Services:

A.

B.

C.

VI. Service Provider will utilize the following subcontractors to accomplish the Services:

A.

B.

C.

EXHIBIT "B"
COMPENSATION / BILLING SCHEDULE

I. Service Provider shall use the following rates of pay in the performance of the Services:

- A. [job] [hourly rate]
- B. [job] [hourly rate]
- C. [job] [hourly rate]
- D. [job] [hourly rate]
- E. [job] [hourly rate]

II. Service Provider may utilize sub-contractors as indicated in this Agreement. The hourly rate for any subcontractor is not to exceed \$_____ per hour without written authorization from the City Manager or his designee.

III. The total compensation for the Services shall not exceed \$_____, as provided in Section 4 "Compensation and Method of Payment" of this Agreement.

EXHIBIT "C" INSURANCE

A. Insurance Requirements. Service Provider shall provide and maintain insurance, acceptable to the City, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by Service Provider, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Service Provider shall provide the following scope and limits of insurance:

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

(1) Commercial General Liability. Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

(2) Automobile. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.

(3) Workers' Compensation. Workers' Compensation insurance as required by the Labor Code of State of California covering all persons providing Services on behalf of the Service Provider and all risks to such persons under this Agreement.

(4) Professional Liability. Professional liability insurance appropriate to the Service Provider's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to Services performed under this Agreement. The insurance must be maintained for at least three (3) consecutive years following the completion of Service Provider's services or the termination of this Agreement. During this additional three (3) year period, Service Provider shall annually and upon request of the City submit written evidence of this continuous coverage.

2. Minimum Limits of Insurance. Service Provider shall maintain limits of insurance no less than:

(1) Commercial General Liability. \$1,000,000 general aggregate for bodily injury, personal injury and property damage.

(2) Automobile. \$1,000,000 per accident for bodily injury and property damage. A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits set forth above.

(3) Workers' Compensation. Workers' Compensation as required by the Labor Code of the State of California of not less than \$1,000,000 per occurrence.

(4) Professional Liability. \$1,000,000 per occurrence.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Policies. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either Party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to City.

2. Commercial General Liability and Automobile Liability Coverages.

(1) City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Service Provider performs; products and completed operations of Service Provider; premises owned, occupied or used by Service Provider; or automobiles owned, leased, hired or borrowed by Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

(2) Service Provider's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Service Provider's insurance.

(3) Service Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) Any failure to comply with the reporting or other provisions of the insurance policies, including breaches of warranties, shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

3. Workers' Compensation Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Service Provider.

C. Other Requirements. Service Provider agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City may require that Service Provider furnish City with copies of original endorsements effecting coverage required by this Exhibit "C". The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Service Provider shall furnish certificates and endorsements from each sub-contractor identical to those Service Provider provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers, or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Service Provider's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.