

**CITY OF UPLAND  
PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of August 1, 2022 by and between the City of Upland, a public agency organized and operating under the laws of the State of California with its principal place of business at 460 N. Euclid Avenue, Upland, CA 91786 ("City"), and Willdan Financial Services, a California Corporation 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 for the following project:

Financial Services related to Debt issuances (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 \$40,000.00 annually. 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.

c. The City Manager may approve Additional Work, as further defined in Section 3, up to ten percent (10%) of the annual amount of the Agreement for each annual term of this Agreement. In no event shall the total annual compensation of the agreement (original compensation amount and Additional Work) exceed forty-four thousand dollars (\$44,000.00). Any additional work in excess of this amount shall be approved by the City Council.

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 City.

5. Term

The term of this Agreement shall be from August 1, 2022 to June 30, 2025, 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 its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). The Notice to Proceed shall set forth the date of commencement of work.

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

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.

9. Assignment and Subconsultant

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 subconsultants 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 City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

a. PERS Eligibility Indemnification

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

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 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 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:

Combined Single Limit

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 within 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 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, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, 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, 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 (with counsel of City's choosing), 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.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

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. 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.

15. Reserved

16. 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 state or federal court situated in the County of San Bernardino, State of California.

17 Termination or Abandonment

a. 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, 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. 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 City and Consultant of the portion of such task completed but not paid prior to said termination. 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 City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

18 Documents. 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.

19. Organization

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

20. Limitation of Agreement.

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

21. 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:	CONSULTANT:
City of Upland	Willdan Financial Services
460 N. Euclid Avenue	27368 Via Industria, Suite 200
Upland, CA 91786	Temecula, CA 92590
Attn: City Manager	Attn: Candace Heiser

and shall be effective upon receipt thereof.

22. 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.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that 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.

24. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of 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.

25. Severability

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

26. 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 City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver

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

28. Time of Essence

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

29. City's Right to Employ Other Consultants

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

30. 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, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

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

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

CITY OF UPLAND

Willdan Financial Services

By: \_\_\_\_\_

Michael Blay,  
City Manager

By: \_\_\_\_\_

Its: President & CEO

Printed Name: Mark Risco

**(Two Signatures of Corporate Officers Required For Corporations)**

By: \_\_\_\_\_

Its: Assistant Secretary

Printed Name: Rebekah Smith

ATTESTED BY:

\_\_\_\_\_  
Keri Johnson  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Stephen P. Deutsch  
Best Best & Krieger LLP  
City Attorney

## EXHIBIT A

### Scope of Services

It is important to note that while performing each service outlined herein, Willdan Financial Services (“WFS”) will rely on the validity and accuracy of the City of Upland’s (“City”) data and documentation to complete our analysis. Willdan will rely on the data as being accurate without performing an independent verification of accuracy, and that we will not be responsible for any errors that result from inaccurate data provided by the client or a third party.

#### **Arbitrage Scope of Services**

##### ***Task 1: Define Compliance Needs and Provide Implementation Schedule***

- Objective:** Obtain bond documents, prior reports, and transactional data necessary to prepare arbitrage computations.
- Description:** WFS will review the bond documents and prior reports provided by the Client and assess the special elections made at issue and the availability of regulatory exceptions.
- Deliverable:** Implementation schedule and access to online Compliance Management System.

##### ***Task 2: Verify Bond Yield and Prepare Arbitrage Rebate and Yield Restriction Analysis***

- Objective:** Compute the cumulative arbitrage rebate liability and/or yield reduction payment accrual for each bond.
- Description:** Utilizing data provided by the Client and authorized third parties, WFS will:
- Verify the bond yield as stated on the 8038G;
  - Identify gross proceeds, transferred proceeds, replacement proceeds, and all other funds subject to arbitrage rebate compliance;
  - Assume all expenditures of bond proceeds have been made in accordance with Section 148(f) of the Internal Revenue Code;
  - Compute investment earnings, taking into account the proper allocation of commingled funds;
  - Future value transactions to the computation date;
  - Test for exceptions to rebate and penalty in-lieu requirements;
  - Analyze unspent construction funds, overfunded reserves, and other events that may be in violation of Section 148(f) of the Internal Revenue Code;
  - Determine the yield reduction payment pursuant to Section 148(f) of the Internal Revenue Code; and
  - Determine the cumulative arbitrage liability pursuant to Section 148(f) of the Internal Revenue Code.
- Deliverable:** None.

##### ***Task 3: Review and Assess Analysis Outcome***

- Objective:** Multi-tiered review of each prepared report and internal discussion of assumptions and opportunities to reduce the rebate liability.
- Description:** Proper application of the arbitrage rebate regulations requires understanding the purpose of the financing and the investment and expenditure of bond proceeds. Once the mathematical analysis is complete, two (2) senior-level rebate consultants will perform a comprehensive review of the report noting computational assumptions and technical issues to be evaluated. If appropriate, these issues will be communicated to the Client.
- Deliverable:** Possible discussion with your staff.

**Task 4: Conclusions, Recommendations, and Action Plan**

**Objective:** Develop conclusions, recommendations, and produce reports.

**Description:** WFS will deliver a cumulative inception to current bond year arbitrage rebate report for each bond under contract and, if warranted, will offer recommendations for actions to be taken including:

- Areas where allocation and accounting methodology could be enhanced;
- Identification of technologies not currently in use that may be applicable and appropriate for future consideration;
- Identification of obstacles or challenges that could prevent timely or accurate compliance; and
- Instructions for filing IRS forms.

**Deliverable:** Completed arbitrage rebate report for each bond under contract inclusive of:

- Executive Summary detailing the assumptions and methodology used;
- Summary Analysis of all relevant dates;
- Sources and uses of funds;
- Arbitrage yield and yield restriction requirements;
- Rebate liability summarized and by fund;
- Arbitrage/Investment Yield Comparison Graph;
- Rebate Calculations by fund; and
- Outstanding Investments Summary.

**Task 5: Review Results**

**Objective:** Discuss arbitrage rebate positions, opportunities, and possible areas of enforcement concern.

**Description:** Key strategic and procedural issues will be discussed, as well as strengths and challenges relating to long-term arbitrage rebate compliance.

**Deliverable:** Discussion with Client staff.

**Task 6: File IRS Payment and Refund Requests**

**Objective:** Assist with filing arbitrage rebate payments and refund requests.

**Description:** WFS will supply completed IRS forms and payment instructions, as needed.

**Deliverable:** Completed IRS Payment and Refund Request Forms, with accompanying instructions.

**Task 7: Monitor Regulatory Enhancement and Enforcement Actions**

**Objective:** WFS will help Client staff stay abreast of regulatory interpretation and enforcement.

**Description:** WFS requires analyst staff to participate in yearly continuing education events and encourages discussion of current regulatory interpretation with clients. Depending upon the circumstances, WFS may recommend procedural and documentation changes to Client staff.

**Deliverable:** Audit assistance.

## **Continuing Disclosure and CDIAC Reporting Scope of Services**

Willdan (WFS) will provide assistance and advice specific to ongoing continuing disclosure matters. With regard to the City's outstanding debt financings, Willdan will support the City in preparing annual continuing disclosure reports. Willdan will help the City provide required financial and operating data requested by investors and/or required by the bond documents to keep securities holders informed of the investment quality of debt issue. Willdan will also assist the City in responding to questions from investors and other market participants.

### ***Task 1: Define Compliance Needs and Provide Implementation Schedule***

**Objective:** Collect bond documents relating to the debt issue, including but not limited to, the formation documents, the official statement, financial statements, Annual Continuing Disclosure Information Statement, and prior CDIAC report, if applicable.

**Description:** WFS will review the bond documents and establish an annual reporting schedule.

**Deliverable:** Reporting schedule and instruction relating to online tracking systems.

### ***Task 2: Compile Data Necessary to Complete Continuing Disclosure and/or CDIAC Report***

**Objective:** Collect data and other third-party information required to be included in the continuing disclosure report and/or CDIAC Report directly from the Client, trustees, fiscal agents, state and county agencies and others.

**Description:** Review the information for accuracy and compliance with continuing disclosure documents.

### ***Task 3: Report Preparation and Review***

**Objective:** Create a draft of the continuing disclosure report and/or CDIAC Report for review.

**Description:** WFS will discuss with Client staff any relevant issues and provide suggestions regarding industry standards.

**Deliverable:** Continuing Disclosure and/or CDIAC Report.

### ***Task 4: Report Dissemination***

**Objective:** Provide timely Disclosure Report filings to the municipal market, CDIAC reports, if applicable, to the State of California.

**Description:** Once authorization to disseminate has been received, WFS will post the report to EMMA and provide confirmation of the date and time of the posting. If applicable, WFS will post the CDIAC report on the CDIAC website.

**Deliverable:** Upload completed and approved Disclosure Report to EMMA, or the currently recognized public repository. Submit CDIAC report to CDIAC.

### ***Task 5: Notices of Occurrence of Listed Events and Supplemental Reporting***

**Objective:** Provide timely Notice of Occurrence of Listed Events to the municipal market and supplement annual filings as necessary.

**Description:** WFS will prepare Notices of Occurrence of Listed Events covering events enumerated in Rule 15c2-12(b). WFS will also prepare Supplemental Disclosure Reports, as necessary.

**Deliverable:** Upload Notices of Occurrence of Listed Events and Supplemental Disclosure Reports to EMMA, or the currently recognized public repository. Provide confirmation of the date and time of the posting.

### ***Task 6: Investor Support***

**Objective:** Present a unified message to the municipal market.

**Description:** WFS will respond to investor calls either directly or after consultation with your staff.

**Deliverable:** Investor Call Support.

**Task 7: Ongoing Regulatory Education**

**Objective:** Ensure communication with the secondary market meets current regulatory requirements and is mindful of enforcement actions and investor concerns.

**Description:** WFS will monitor information releases from CDIAC, the SEC and the MSRB regarding enforcement actions and regulatory changes. If requested, WFS will review draft disclosure documents for new issues.

**Deliverable:** Upon request.

## Client Responsibilities

The Client will submit to WFS:

- Financial and Operating Information, including but not limited to: Bond documentation, Adopted Budget, Audited and Unaudited Financial Statements (if audited financials are not available), communications with CDIAC, bank statements/transactional data, and fund balances.
- Timely review of draft Disclosure Report.
- Authorization to disseminate Disclosure Report.
- All information relating to any change to the credit ratings or the occurrence of Listed Events as identified in the Continuing Disclosure Agreement or Certificate within three business days from the date of occurrence of such event.
- All Ratings Reports sent to Client by any Rating Agencies. Authorization for Rating Agencies, Trustees, and any other third parties to send information directly to WFS.

### Project Disclaimer

The Client further represents, acknowledges and agrees that:

- (i) The Client uses the services of one or more municipal advisors registered with the U.S. Securities and Exchange Commission ("SEC") to advise it in connection with municipal financial products and the issuance of municipal securities;
- (ii) The Client is not looking to Willdan to provide, and Client 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 Client with respect to financial, economic or other matters relating to a prospective, new or existing issuance of municipal securities of the Client, (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 Client, 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 Client 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 Client 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 Client 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 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 City regarding any out-of-scope work being performed by Consultant.

**Arbitrage Fees**

To the extent that the necessary information is available, WFS endeavors to quote fees that accurately reflect the complexity of the services needed. If circumstances are encountered that affect our ability to proceed, such as additional information coming to our attention not determined or available during our scoping efforts, the fixed fee schedule will become a time-and-materials contract, and we will inform you promptly and seek your approval for any changes in scope, timing or fees that may result from such circumstances.

Issue Name	Issue Date	Principal Amount	Next Report	Fiscal Year 2022-23	Fiscal Year 2023-24	Fiscal Year 2024-25
Multifamily Housing Revenue Note (Sunset Ridge Apts and Village Apts) Series 2017	7/26/2017	\$14,865,000	7/26/2022	\$2,500	\$-	\$-
Multifamily Housing Revenue Note (Sunset Ridge Apts and Village Apts) Series 2021	7/28/2021	\$12,982,644	7/28/2022	1,750	-	-
Energy Efficiency Lease Agreement	8/24/2017	\$2,797,094	8/24/2022	2,500	-	-
CREBS Lease Agreement	8/24/2017	\$4,548,393	8/24/2022	2,500	-	-
CFD 2003-1 (Upland 54) Special Tax Bonds, Series A of 2004	12/22/2004	\$1,750,000	9/1/2022	1,250	1,250	1,250
CFD 2003-2 (The Colonies at San Antonio) IA No. 1, Special Tax Refunding Bonds, Issue of 2012	8/16/2012	\$22,060,000	9/1/2022	2,000	-	-
Water Revenue Refunding Bonds, Series 2021 (Tax-Exempt)	10/14/2021	\$6,553,000	10/1/2022	1,750	-	-
CFD 2015-1 (Sycamore Hills) Special Tax Bonds, Series 2022A (IA No. 2)	4/21/2022	\$5,295,000	4/21/2023	1,750	-	-
Tax Allocation Refunding Bonds, Issue of 2013	6/4/2013	\$22,090,000	6/4/2023	2,000	-	-
CFD 2003-2 (The Colonies at San Antonio) IA No. 1, Special Tax Refunding Bonds, Issue of 2022	6/6/2022	\$14,595,000	6/6/2023	1,750	-	-
CFD 2016-1 (Harvest at Upland) Special Tax Bonds, Series 2018A (IA No. 1)	11/15/2018	\$5,385,000	11/14/2023	-	2,000	-
CFD 2015-1 (Sycamore Hills) Special Tax Bonds, Series 2019A (IA No. 1)	7/25/2019	\$5,315,000	7/24/2024	-	-	2,000
CFD 2003-2 (The Colonies at San Antonio) IA No. 2, Special Tax Refunding Bonds, Issue of 2015	7/1/2015	\$18,360,000	9/1/2024	-	-	2,000
<b>FISCAL YEAR TOTALS</b>				<b>\$19,750</b>	<b>\$3,250</b>	<b>\$5,250</b>

### **Arbitrage Enhanced Service Fees**

The nature and complexity of each bond issue, the frequency of computation, and the transparency of the transactional data, determines the extent to which the following specialized services will apply:

Arbitrage Services	Fee
<b>Commingled Funds Analysis.</b> Clients providing data with commingled funds will incur an additional charge to uncommingle transactional data.	\$250 per fund
<b>Parity Reserve Allocation.</b> Bonds that have been issued on parity that require an allocation of the reserve fund.	\$250 per fund
<b>Transferred Proceeds Analysis.</b> The regulations require an additional level of analysis for proceeds of Refunding and Refunded bonds.	\$250 per fund
<b>Universal Cap Analysis.</b> The regulations require an additional level of analysis when the balance of bond proceeds exceed the value of the outstanding bonds.	\$500 per year
<b>Non-Bona Fide Debt Service Fund.</b> Our base fee assumes that the Bond Fund, as defined in the bond documents, meets the bona fide debt service fund exemption to rebate. If this fund fails to qualify for this exemption, an additional fee will be charged to analyze the investment activity.	\$500 per fund
<b>IRS Audit Assistance</b>	\$150 per hour
<b>Request for Refund of Overpayment</b>	No Charge
<b>Online Compliance Management System</b>	No Charge
<b>Preparation of IRS Form 8038T (Payment)</b>	No Charge

### **Non-Landbased Continuing Disclosure and CDIAC Fees**

Disclosure Services	Fee
Engagement Fee for New Issues	\$250 per Issue
<b>Base Annual Report Fee</b>	
Tax Allocation Bonds	\$2,025
Revenue Bonds	\$1,125
Annual Dissemination per Document	\$100
Incremental Fee per Parity Issue	\$495
Supplemental/Amended Reports (if necessary)	\$250 - \$450 per Report
Notice of Occurrence of Listed Events	\$250 per Notice
Annual Third-Party Expenses	At Cost plus 10%
<b>CDIAC Report Preparation and Filing</b>	
CDIAC Yearly Transparency Report (due annually in January) (while proceeds are outstanding)	\$950 per Report
CDIAC Yearly Transparency Report (due annually in January) (once proceeds are fully expended)	\$250 per Report

Billed invoices are required to be paid within 30 days.

**Reimbursable Expenses**

Willdan will be reimbursed for out-of-pocket expenses. Examples of reimbursable expenses include, but are not limited to: postage, travel expenses, mileage (current prevailing federal rate), maps, electronic data provided from the County and/or other applicable resources, construction cost periodicals, and copying (currently 6¢ per copy).

Any additional expense for reports or from outside services will be billed to the City. Charges for meeting and consulting with counsel, the City, or other parties regarding services not listed in the scope of work above will be at our then-current hourly rates (see "Additional Services" section).

In the event that a third-party request any documents, Willdan may charge such third party for providing said documents in accordance with Willdan's applicable rate schedule. The fees for preparation of continuing disclosure report assumes that the City will provide information (if requested, and as necessary) as may be reasonably accessible to the City in an electronic format (as appropriate). Moreover, other than those specified in the scope of services, Willdan also reserves the right to charge fees directly to parties requesting copies of the continuing disclosure report. All annual fees are subject to annual increase at the rate of the Consumer Price Index.

The City shall reimburse Willdan for any costs incurred, including without limitation, copying costs, digitizing costs, travel expenses, employee time and attorneys' fees, to respond to the legal process of any governmental agency relating to the City or relating to the project. Reimbursement shall be at Willdan's hourly rates in effect at the time of such response.

**Additional Services**

Additional services may be authorized by the City and will be billed at our then-current hourly consulting rates. Our current hourly rates are:

Position	Hourly Rate
Vice President - Director	\$210
Principal Consultant / Assistant Director	200
Senior Project Manager	165
Project Manager	145
Senior Project Analyst	130
Senior Analyst	120
Analyst	100
Analyst Assistant	75
Property Owner Services Representative	55
Support Staff	50