



City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: July 21, 2009

SUBJECT: Technical and Labor Compliance Services contract for CDBG,
HOME, and other Housing Programs

Report in Brief

In 2007, the City selected Willdan to provide technical and labor compliance services for Community Development Block Grant (CDBG) Program, Home Investment Partnerships Program (HOME), and other housing programs. This contract agreement may be reauthorized annually after approval by the City Council for up to three consecutive years.

Staff recommends that the City Council approve Resolution No. _____ authorizing the third year of Willdan's consultant agreement to continue the technical and labor compliance services and authorize the City Manager to execute the contract for Fiscal Year 2009-2010.

Background

In 2007, the City issued a Request for Qualifications (RFQ) for a consultant to provide technical and labor compliance services in regards to the City's housing rehabilitation program, public facilities, and other grant-funded construction projects on an as-needed basis. Federal procurement regulations allow jurisdictions to contract out services for no more than three consecutive years with one consultant. After that time, that jurisdiction must publicly issue a RFQ before entering into another contract for these services. From this process, the community development consulting firm, Willdan, was selected and entered into a contract with the City. The contract can be renewed every year for three years.

The agreement with Willdan has been mostly limited to the implementation of the City's Housing Rehabilitation Program and Davis-Bacon Labor Standards compliance and technical assistance for the City's CDBG funded and HOME funded projects. In 2008-2009 the scope of work for the contract amendment was slightly altered to provide technical assistance to CDBG public facility projects managed by community non-profits. This change was included to help the non-profits deal with the maze of federal regulations associated with CDBG and HOME projects.

Specifically the contract extension for next year (as shown in Attachment I) covers these consultant services:

Housing Rehabilitation Program

- Marketing of program
- Receipt and review of applications for rehabilitation funding
- Income qualification of households eligible for program
- Preparation of loan package for loan committee review
- Preparation of loan documents
- Coordination of project bidding/cost estimates

Technical Construction Services

- Preparation of project scope of work
- Preparation of bid package
- Assisting with permitting if needed
- Review of construction invoices
- Overall coordination with City staff throughout projects

Davis Bacon Labor Standards

- Assess projects for labor standards requirements
- Secure wage determinations
- Ensure Davis Bacon labor standards language in bid documents
- Attend pre-construction meetings and advise attendees regarding Davis Bacon labor standards requirements
- Review payrolls throughout projects

Discussion

The above scope of services is more specifically defined in this contract amendment. The consultant does not assist with administrative work done by City staff, which involves ensuring that all CDBG requirements and regulations are met by the consultant, initiation and preparation of public hearing notices and meetings, attendance and participation at meetings with the City Council, preparation of the Annual Action Plan and five-year Consolidated Plan, preparation of National Environmental Policy Act (NEPA) documents, financial draw downs from HUD, reconciliation of City and HUD financial records, attendance and participation during HUD and City annual audits, completion of HUD performance measurement outcome documents, monitoring of grant recipients' programs and projects, and servicing all housing loans.

Staff believes that Willdan's performance during the current agreement and over the last several years when they have provided similar services has been excellent, consistent, and efficient. The specialist has developed collaborative working relationships with the community non-profit organizations who receive CDBG funds. Finally, the specialist has demonstrated thorough knowledge of federal regulations, which facilitates compliance by the non-profit organizations.

Fiscal Impact

All services provided to the City by Willdan are paid for with CDBG or HOME Program funds. The costs are attributed to specific projects as activity delivery expenses. For the Housing Rehabilitation Program the services cannot exceed 15% of the loan amount. Staff anticipates that the 2009-2010 cost of Willdan's services will be less than the amount billed for last year's CDBG services, decreasing from approximately \$30,000 to \$15,000. Funds for the contract were approved in the CDBG Action Plan and no further action needs to be taken.

There are two significant reasons for the decrease in services. One, due to the high demand for CDBG public facility (construction) grant dollars in 2009-2010, CDBG program staff was unable to fund the City's Housing Rehabilitation Program. Secondly, Willdan will not be needed to assist two of the five CDBG public facility (construction) sub recipients--- the City of Woodland and the Yolo County Housing Authority. Both the City and the Housing Authority have the necessary staff experience needed to comply with HUD procurement and labor compliance regulations.

Willdan's services for HOME-projects (multi-family construction projects) are funded through the HOME grant received for the specific project.

There is no impact on the City's General Fund.

Public Contact

Posting of the City Council agenda.

Recommendation for Action

Staff recommends that the City Council approve Resolution No. _____ authorizing the third year of Willdan's consultant agreement to continue the technical and labor compliance services and authorize the City Manager to execute the contract for Fiscal Year 2009-2010.

Prepared by: Devon Horne
Redevelopment Analyst

Reviewed by: Cynthia Shallit
Redevelopment Manager

Reviewed by: Barry Munowitch, AICP
Assistant City Manager

Mark G. Deven
City Manager

Attachments: Consultant Agreement for CDBG, HOME, and other Housing Programs Technical
and Labor Compliance Services and Resolution

COUNCIL RESOLUTION NO. _____

RESOLUTION OF THE CITY OF WOODLAND REAUTHORIZING THE THIRD YEAR OF THE THREE YEAR CONSULTANT CONTRACT WITH WILLDAN FOR TECHNICAL AND LABOR COMPLIANCE SERVICES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT, HOME INVESTMENT PARTNERSHIPS PROGRAM, AND OTHER HOUSING PROGRAMS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AMENDMENT WITH WILLDAN FOR FISCAL YEAR 2009-2010

WHEREAS, the City of Woodland (the "City") desires to contract with a consultant to provide technical and labor compliance services for the Community Development Block Grant (CDBG), Home Investment Partnerships Program (HOME), and other housing programs; and

WHEREAS, the City issued a Request for Qualification (RFQ) in June 2007; and

WHEREAS, Federal procurement regulations allow jurisdictions to contract out for CDBG administrative and technical services for no more than three consecutive years with one consultant; and

WHEREAS, the City desires to continue the contract with Willdan for the second year of the three year eligible period for services:

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODLAND DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council hereby approves the reauthorization of the third year of the three year consultant contract with Willdan for technical and labor compliance services for the Community Development Block Grant, Home Investment Partnerships Program, and other housing programs.

Section 2. The City Manager is authorized and directed to execute the contract with Willdan for Fiscal Year 2009-2010 on behalf of the City, and to take such actions and execute such further documents as may be necessary to carry out the purposes of this Resolution.

APPROVED AND ADOPTED this 21st day of July, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Marlin H. "Skip" Davies, Mayor

Sue Vannucci, City Clerk

APPROVED AS TO FORM:

Andrew Morris, City Attorney

**CONTRACT FOR SERVICES
AMENDMENT II**

THIS AMENDMENT changes the contract executed on July 1, 2007. The amendment is made on _____, 2009, between the CITY OF WOODLAND, CALIFORNIA, ("City"), and Willdan ("Consultant").

WITNESSETH:

WHEREAS, the City desires to retain the services of a qualified consultant firm to provide administrative and other technical services in support of its Community Development Block Grant (CDBG) program, Home Investment Partnerships (HOME) funded projects and programs, and other affordable housing programs; and

WHEREAS, the Consultant has presented a proposal for such services to the City (attached hereto and incorporated herein as Exhibit "A") and is duly licensed, qualified and experienced to perform those services;

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES:

A. Consultant shall do all work, attend all meetings, produce all reports and carry out all activities necessary to completion of the services described in Exhibit "A" attached hereto and incorporated herein. This Contract and its exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract.

B. Consultant enters into this Contract as an independent contractor and not as an employee of the City. The Consultant shall have no power or authority by this Contract to bind the City in any respect. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant are employees, agents, contractors or subcontractors of the Consultant and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Consultant by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract.

C. The Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

II. COMPENSATION:

A. Consultant shall be paid monthly for the actual fees, costs and expenses for all time and materials required and expended, in accordance with the fee schedules set forth in Exhibit "A."

B. Said amount shall be paid upon submittal of monthly billing statements showing completion of the tasks that month.

C. If the work is halted at the request of the City; compensation shall be based upon the proportion that the work performed bears to the total work required by this contract.

III. TIME OF PERFORMANCE:

The services of Consultant are to commence upon execution of this Contract by City, and shall be undertaken and completed in a prompt and timely manner. The time schedule as provided for in Exhibit A, the Scope of Services, shall be followed.

IV. TERMINATION:

The City upon seven (7) days' written notice may terminate this Contract, without cause, at any time. In the event of any such termination, the Consultant shall be compensated as provided for in this Contract. Upon such termination, the City shall be entitled to all work, including but not limited to, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date in accordance with Section VII hereof.

Notwithstanding any provisions of this Contract, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Consultant, and the City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the City from Consultant is determined.

V. CHANGES:

The City may, from time to time, request changes in the scope of the services of Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of Consultant's compensation and/or changes in the schedule must be authorized in advance by the City in writing. Mutually agreed changes shall be incorporated in written amendments to this Contract, or the attached work program.

VI. EXTENSIONS OF TIME:

Consultant may, for good cause, request extensions of time to perform the services required hereunder. Such extensions shall be authorized in advance by the City in writing and shall be incorporated in written amendments to this Contract or the attached work program.

VII. PROPERTY OF CITY:

It is mutually agreed that all materials prepared by the Consultant under this Contract shall become the property of the City, and the Consultant shall have no property right therein whatsoever. Immediately upon termination, the City shall be entitled to and the Consultant shall deliver to the City all data, drawings, specifications, reports, estimates, summaries and other such materials and commission as may have been prepared or accumulated to date by the Consultant in performing this Contract which is not Consultant's privileged information, as defined by law, or Consultant's personnel information.

VIII. COMPLIANCE WITH LOCAL LAW:

Consultant shall comply with all applicable laws, ordinances, and codes of federal, state and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract. It shall be City's responsibility to obtain all rights of way and easements to enable Consultant to perform its services hereunder. Consultant shall assist City in providing the same.

IX. WARRANTY:

Consultant agrees and represents that it is qualified to properly provide the services set forth in Exhibit "A" in a manner which is consistent with the generally accepted standards of Consultant's profession. Consultant further represents and agrees that it will perform said services in a legally adequate manner in conformance with applicable federal, state and local laws and guidelines.

X. SUBCONTRACTING:

None of the services covered by this Contract shall be subcontracted without the prior written consent of the City, which will not be unreasonably withheld. Consultant shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant.

XI. ASSIGNABILITY:

Consultant shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the City, which will not be unreasonably withheld. Provided, however, that claims for money due or to become due Consultant from the City under this Contract may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City.

XII. INTEREST IN CONTRACT:

Consultant covenants that neither it, nor any of its employees, agents, contractors, subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder.

XIII. FINDINGS CONFIDENTIAL:

All of the materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

XIV. LIABILITY OF CONSULTANT-NEGLIGENCE:

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally accepted standards of the Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

XV. INDEMNITY AND LITIGATION COSTS:

Consultant shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees arising out of or in connection with Consultant's negligent performance of work hereunder or its negligent failure to comply with any of its obligations contained in the Contract Documents, except such loss or damage which was caused by the [active negligence,]sole negligence, or willful misconduct of the City.

XVI. CONSULTANT TO PROVIDE INSURANCE:

A. Consultant shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Contract the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A.

B. Prior to execution of this agreement and prior to commencement of any work, the Consultant shall furnish the City with original endorsements effecting coverage for all policies required by the Contract. A person authorized by the insurer to bind coverage on its behalf shall sign the endorsements. The endorsements are to be on forms provided by the City. As an alternative to the City's forms, the Consultant's insurer may, subject to the approval of the City, provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Section. The Consultant agrees to furnish one copy of each required policy to the City, and additional copies as requested in

writing, certified by an authorized representative of the insurer. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant.

C. In the case of the professional liability insurance required by this Section, the Consultant's insurer must provide a complete, certified copy of the policy, including endorsements affecting the coverage required by this Section.

D. In addition to any other remedy the City may have, if Consultant fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due Consultant under this Contract.

E. Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be suspended, voided, canceled, terminated by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

F. Any deductibles must be declared to and approved by the City.

G. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

H. The Consultant and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance or work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by Consultant and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Contract. The City as a material breach of this Contract may treat the failure of Consultant or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal.

1. Worker's Compensation and Employer's Liability Insurance.

a. Worker's Compensation - Insurance to protect the Consultant, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations. The Consultant shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in the Contract Documents.

b. Claims Against City - If an injury occurs to any employee of the Consultant for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of said Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Consultant under this Contract, an amount sufficient to cover such compensation as fixed by said Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Consultant.

2. Comprehensive General and Automobile Liability Insurance.

The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than \$1,000,000.00 per occurrence.

The comprehensive general and automobile liability insurance coverage shall also include, or be endorsed to include, the following:

a. Provision or endorsement naming the City and each of its officers, employees, and agents, as additional insureds in regards to: liability arising out of the performance of any work under the Contract; liability arising out of activities performed by or on behalf of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

b. Provision or endorsement stating that for any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers to the extent the City is an additional insured. Any insurance or self insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.

c. Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of representations shall not affect coverage provided to the City, its officers, officials, employees, or volunteers.

d. Provision or endorsement stating that the Consultant'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.

e. Provision or endorsement stating that such insurance, subject to all of its other terms and conditions, applies to the liability assumed by the Consultant under the Contract, including, without limitation, that set forth in Section XV, Indemnity and Litigation Costs.

3. Professional Liability

The Consultant and its contractors and subcontractors shall secure and maintain in full force, during the term of this Contract professional liability insurance policies appropriate to the respective professions and the work to be performed as specified in this Contract. The limits of such professional liability insurance coverage shall not be less than \$1,000,000 per claim.

XVII. MISCELLANEOUS PROVISIONS:

A. The Consultant shall designate a project manager who at all times shall represent the Consultant before the City on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he is removed at the request of the City, is no longer employed by Consultant or replaced with the written approval of the City which shall not be unreasonably withheld.

B. The Consultant shall keep itself fully informed of and shall observe and comply with and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

C. Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.

D. The Consultant shall maintain and make available for inspection by the City and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to the Consultant.

E. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

F. All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City: City of Woodland
300 First Street
Woodland, CA 95695

Consultant: Willdan
13191 Crossroads Parkway North, Suite 405
Industry, CA 91746-3497

Executed the day and year first above written, by the parties as follows.

CITY OF WOODLAND, CALIFORNIA

By _____
City Manager

ATTEST:

By _____,
City Clerk

CONSULTANT

By _____
Senior Vice President

Approved as to Form:

By _____
City Attorney

EXHIBIT A

SCOPE OF SERVICES AND COMPENSATION

Housing Rehabilitation Program Administration

Willdan will perform all of the tasks associated with the complete processing of a case through the City's CDBG funded Housing Rehabilitation Program on an hourly basis at rates of \$80.00 and \$55.00 per hour, but in no case shall the activity delivery fee exceed 15 percent of the actual rehabilitation cost. Any other services not specifically related to the processing of loan cases (e.g., program marketing, contractor outreach and loan portfolio management) would be provided on an hourly basis.

Labor Standards Compliance

Willdan will perform labor standards compliance monitoring on an hourly basis, at a rate of \$90.00 for a Labor Standards Compliance Specialist and \$80.00 for an Assistant Community Development Planner.

Technical Assistance for Administration and Implementation of CDBG/HOME Funded Programs and Projects

In addition to the specific activities described above, Willdan will provide other administrative services and technical assistance for the City's CDBG/HOME funded programs and projects on an hourly basis in accordance with the following fee schedule:

Division Manager	\$160.00
Labor Standards Compliance Specialist	\$90.00
Assistant Community Development Planner	\$80.00
Administrative Assistant	\$55.00

Length of Contract: July 1, 2009 to June 30, 2010.

EXHIBIT B

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

CONSULTANT

By: _____
Senior Vice President