

SOUTH BAY CITIES COUNCIL OF GOVERNMENTS
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is made as of August 16, 2013 by and between the South Bay Cities Council of Governments, a California joint powers authority ("SBCCOG") and (Willdan Energy Solutions) ("Consultant").

R E C I T A L S

A. SBCCOG desires to utilize the services of Consultant as an independent contractor to provide specified professional services to SBCCOG as set forth in Exhibit A (Statement of Work for Water Leak Detection Program (Program)), to build upon recent water-energy pilot efforts to develop a Program to substantially advance the development of a methodology for computing water-related embedded energy, and to achieve clear and actionable energy savings, demand reduction, and water system benefits.

B. The goal of this Program is to provide a cost-effective program offering design and receiving recommendations for cost-effective and effective incentive offerings to motivate water purveyors to take action to further their water management-control efforts in the urban water infrastructure.

C. Consultant represents that it is fully qualified to perform consulting services by virtue of its experience and the training, education, and expertise of its principals and employees.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

1. Services.

1.1 The nature and scope of the specific services to be performed by Consultant are as described in Exhibit A, attached hereto and incorporated herein by reference.

1.2 Consultant shall comply with the all the provisions of the Master Contract (Water Leak Detection Implementation Contract), attached hereto as Exhibit B and incorporated herein by reference.

1.3 SBCCOG agrees to conduct its best effort to assist with the success of the program and understands that the Consultant assumes full responsibility to manage and produce the program.

1.4 SBCCOG and participating agencies shall provide all relevant documentation in their possession to the Consultant upon request in order to minimize duplication of efforts. The SBCCOG staff shall work with the Consultant as necessary to facilitate performance of the services.

2. Term of Agreement. This Contract shall take effect _____ and shall continue until December 31, 2014 unless earlier terminated pursuant to the provisions of paragraph 13 herein. The term of this Agreement may be extended by mutual agreement of the parties as may be necessary or desirable to carry out its purposes.

3. Compensation. SBCCOG shall pay for services based on the estimated budget in an amount not to exceed \$371,371.

4. Terms of Payment. Consultant shall submit monthly invoices along with required reporting documents by the 8th of each month for services rendered the preceding Month, and for reimbursable expenses incurred. The invoice should include: an invoice number, the dates covered by the invoice, the hours expended and a summary of the work performed in conformance with SCE's reporting requirements. SBCCOG shall pay the invoices within sixty (60) days of receipt.

5. Parties' Representatives. Jacki Bacharach shall serve as the SBCCOG's representative for the administration of the project. All activities performed by the Consultant shall be coordinated with this person. Katie Wilson shall be in charge of the project for the Consultant on all matters relating to this Agreement and any agreement or approval made by her shall be binding on the Consultant. This person shall not be replaced without the written consent of the SBCCOG.

6. Addresses.

SBCCOG:

South Bay Cities Council of Governments
20285 S. Western Ave., Suite 100
Torrance, CA 90501
Attention: Jacki Bacharach, Executive Director

Consultant:

Willdan Energy Solutions
101 E. Huntington Drive, Suite 110
Attention: Katie Wilson

7. Status as Independent Contractor.

A. Consultant is, and shall at all times remain as to SBCCOG, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of SBCCOG or any participating agency or otherwise act on behalf of SBCCOG or any participating agency as an agent except as specifically provided in the Scope of Services. Neither SBCCOG nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner employees of SBCCOG.

B. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant further agrees to indemnify and hold SBCCOG harmless from any failure of Consultant to comply with applicable worker's compensation laws.

8. Standard of Performance. Consultant shall perform all work at the standard of care and skill ordinarily exercised by members of the profession under similar conditions.

9. Indemnification. Consultant agrees to indemnify the SBCCOG and participating

public agencies, their respective officers, staff consultants, agents, volunteers, employees, and attorneys against, and will hold and save them and each of them harmless from, and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the negligent or other wrongful acts, errors or omissions of Consultant, its agents, employees, subcontractors, or invitees, including each person or entity responsible for the provision of services hereunder, except for liability resulting from the sole negligence or wrongful acts of the SBCCOG or a participating agency.

10. Insurance. Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California and approved by the SBCCOG (1) a policy or policies of broad-form comprehensive general liability insurance with minimum limits of \$1,000,000.00 combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts by Consultant, its officers, employees, agents, and independent contractors in performance of services under this Agreement; (2) property damage insurance with a minimum limit of \$1,000,000.00; (3) automotive liability insurance, with minimum combined single limits coverage of \$500,000.00; and (4) worker's compensation insurance with a minimum limit of \$500,000.00 or the amount required by law, whichever is greater. SBCCOG and participating public agencies, their respective officers, employees, attorneys, staff consultants, and volunteers shall be named as additional insureds on the policy (ies) as to comprehensive general liability, property damage, and automotive liability. The policy (ies) as to comprehensive general liability, property damage, and automobile liability shall provide that they are primary, and that any insurance maintained by the SBCCOG shall be excess insurance only.

A. All insurance policies shall provide that the insurance coverage shall not be canceled by the insurance carrier without the insurance carrier giving SBCCOG thirty (30) day's prior written notice thereof, ten (10) days notice if cancellation is due to nonpayment of premium. Consultant agrees that it will not cancel, reduce or otherwise modify the insurance coverage.

B. All policies of insurance shall cover the obligations of Consultant pursuant to the terms of this Agreement; shall be issued by an insurance company which is admitted to do business in the State of California or which is approved in writing by the SBCCOG; and shall be placed with a current A.M. Best's rating of no less than A VII.

C. Consultant shall submit to SBCCOG (1) insurance certificates indicating compliance with the minimum worker's compensation insurance requirements above, and (2) insurance policy endorsements indicating compliance with all other minimum insurance requirements above, not less than one (1) day prior to beginning of performance under this Agreement. Endorsements shall be executed on SBCCOG's appropriate standard forms entitled "Additional Insured Endorsement", or a substantially similar form which the SBCCOG has agreed in writing to accept.

11. Confidentiality. Parties agree to preserve as confidential all Confidential Information that has been or will be provided to each other.

12. Ownership of Materials. All materials provided by Consultant in the performance of this Agreement shall be and remain the property of SBCCOG and its partner organizations without restriction or limitation upon their use or dissemination by SBCCOG. The consultant will retain non-exclusive perpetual rights to the use of material developed under this contract.

13. Conflict of Interest. It is understood and acknowledged that Consultant will serve as an agent of the SBCCOG and the participating agencies for the limited purpose of

implementation of this project.

14. Termination. Either party may terminate this Agreement without cause upon fifteen (15) days' written notice to the other party. The effective date of termination shall be upon the date specified in the notice of termination, or, in the event no date is specified, upon the fifteenth (15th) day following delivery of the notice. Immediately upon receiving written notice of termination, Consultant shall discontinue performing services. Should the Agreement be breached in any manner, the non-breaching party may, at its option, terminate the Agreement not less than five (5) days after written notification is received by the breaching party to remedy the violation within the stated time or within any other time period agreed to by the parties.

15. Personnel. Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant's services under this Agreement, but SBCCOG reserves the right, for good cause, to require Consultant to exclude any employee from performing services on SBCCOG's premises.

16. Non-Discrimination and Equal Employment Opportunity.

A. Consultant shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement, and will comply with all rules and regulations of SBCCOG relating thereto. Such nondiscrimination shall include but not be limited to the following: employment, upgrading, demotion, transfers, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

17. Assignment. Consultant shall not assign or transfer any interest in this Agreement nor the performance of any of Consultant's obligations hereunder, without the prior written consent of SBCCOG, and any attempt by Consultant to so assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

18. Compliance with Laws. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments. Each party is responsible for paying its own all federal and state income taxes, including estimated taxes, and all other government taxes, assessments and fees incurred as a result of his/her performance under this Agreement and the compensation paid by or through this Agreement

19. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by SBCCOG of any payment to Consultant constitute or be construed as a waiver by SBCCOG of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any

such payment by SBCCOG shall in no way impair or prejudice any right or remedy available to SBCCOG with regard to such breach or default.

20. Resolving Disputes. If a dispute arises under this Agreement, prior to instituting litigation the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in California. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties.

21. Severability. If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in effect provided that the principal purposes of the parties are not thereby frustrated.

22. Notices. Any notices required to be given under this Agreement by either party to the other may be affected by any of the following means: by electronic correspondence (email), by personal delivery in writing by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices must be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change the address by giving written or electronic notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first. Electronic notices are deemed communicated as of actual time and date of receipt. Any electronic notices must specify an automated reply function that the email was received. The email addresses for each party are as follows:

Jacki Bacharach – jacki@southbaycities.org
Katie Wilson – (kwilson@willdan.com)

23. Governing Law. This Contract shall be interpreted, construed and enforced in accordance with the laws of the State of California.

24. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

25. Entire Agreement. This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between Consultant and SBCCOG. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties which expressly refers to this Agreement. Amendments on behalf of the SBCCOG will only be valid if signed by the SBCCOG Executive Director or the Chairman of the Board and attested by the SBCCOG Secretary.

26. Exhibits. All exhibits referred to in this Agreement are incorporated herein by this reference.

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

"SBCCOG"
South Bay Cities Council of Governments

By: _____
Daniel Medina

Title: Chair

Date: _____

Attest: _____
SBCCOG Secretary

Consultant
Willdan Energy Solutions

By: _____
(Signature)

Paul Whitelaw

Title: __Senior Vice President_____

Date: _____

Exhibit A
WATER LEAK DETECTION
SCOPE OF WORK

Program Name: Water Leak Detection Program (WLDP)
Implementer: South Bay Cities Council of Governments (SBCCOG)
Consultant to Implementer: Willdan Energy Solutions (Willdan Team)

The Willdan Team will provide SBCCOG with consultant services related to the implementing the Water Leak Detection Program. The scope of work includes support on the following WDLDP tasks:

- Task 1: Kick-off Meeting, Follow-Up Meetings, and Preliminary Project Planning
- Task 2: Project Baseline Data
- Task 3: Utilize an Economically Optimized Water Loss Intervention Strategy in the Short and Long-term
- Task 4: Implementation of Water Leak Detection Program
- Task 5: Implementation of Water System Pressure Management Program
- Task 6: Develop Program Design, Quantify Energy Savings and Evaluate Cost Effectiveness
- Task 7: Create a Strategic Plan for Commercialization of the Water Loss Control Program in SCE’s Territory
- Task 8: Marketing and Outreach

Task 1: Kick-off Meeting, Follow-Up Meetings, and Preliminary Project Planning

The Willdan Team will attend the Program kick-off meeting with SBCCOG and SCE to discuss Program logistics, coordination, evaluation, invoicing requirements, scope of work, and any remaining contract issues at a time and place to be determined by SCE after the issuance of the notice to proceed (NTP). The tasks related to the kick-off meeting included the following:

- Clarification of the project and Program objectives;
- Establishing points of contact;
- Establishing communication protocols with the Consultant;
- Discussing research goals and methodologies;
- Discussing data requirements;
- Making any necessary refinements in the schedule and Work scope; and
- Scheduling of a follow-up meeting with final date and time approval by SCE to discuss any necessary updates or revisions to the scope of work.

Subsequent follow-up meetings will be established with a minimum regularity of once every two weeks unless SCE agrees to a different schedule.

Task 1 Deliverables: Deliverables	Due Dates
1. Attend a Program Kick-off meeting.	SCE to schedule within 10 Business Days of NTP.

Task 2: Project Baseline Data

The Willdan Team will work with SBCCOG and SCE’s Consultant to finalize the data requirements, sources and measurement points in order to establish Project Baseline Data and demonstrable impact (e.g., operational and maintenance documentation and cost assumptions). Elements of the Project Baseline Data will focus on the most recent data (fiscal year or calendar year). The Willdan Team will work with the SBCCOG to make a reasonable effort to gather the most recent three (3) to five (5) years of historic data, and this will be reviewed and considered in the case that the quality of the most recent data is unsatisfactory. The data to be collected includes but is not limited to:

- Detailed water system schematic diagram, with elevations;
- Detailed monthly water source information (e.g., surface water, ground water, desalted water, aqueduct, and imports from other water utilities or agencies);
- Detailed water and energy costs for all sources;
- Monthly energy consumption and demand information in kWh and kilowatts (kW);
- Monthly water production and consumption data;
- Metering policies and data including counts by type, size, etc.;
- Water loss volumes (per month if possible, but annually at a minimum);
- Data from previous water loss efforts; and
- Break repair data, maintenance and repair practices.

The Willdan Team will coordinate with SBCCOG and SCE’s Consultant to arrange an initial meeting to discuss the Project, and, to the extent possible, the parties should invite all key stakeholders from SCE and all involved water agencies to such meeting.

The Willdan Team shall establish the American Water Works Association (AWWA) water balance for an audit period approved by SCE using the Water Systems Optimization (WSO) developed “Audit Solve” software and compare the full set of performance indicators against a comprehensive data set of North American water agencies. This shall include a comprehensive analysis of all system input and export volumes including source and export meter evaluation and testing where feasible as well as a component breakdown of consumption volumes and both real and apparent losses. Real loss estimates shall include a “Breaks and Background Estimates” (BABE) model (real loss component analysis), separating the leak and break volumes into reported, unreported and background categories.

The Willdan Team will provide details of mandated and/or voluntary distribution improvement and/or water-loss mitigation plans. These plans are required before any of the water-loss reduction Measures are implemented in order to accurately quantify the water-loss and energy savings achieved through the Program. The Willdan Team will also refer to post project evaluations.

Task 2 Deliverables

Task 2 Deliverables: Deliverables	Due Dates
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1. Project kick-off meeting	NTP plus 15 Business Days
2. Finalize data requirements	NTP plus 20 Business Days.
3. Provide raw data as described above	NTP plus 50 Business Days.
4. Validation of System Input Volumes	NTP plus 70 Business Days.
5. Billed, metered, authorized consumption and apparent loss analysis	NTP plus 100 Business Days.
6. Provide water balance and component analysis as described above	NTP plus 115 Business Days.

Task 3: Utilize an Economically Optimized Water Loss Intervention Strategy in the Short and Long-term

The Willdan Team will ensure each SBCCOG participating city:

- Adheres to AWWA best practice standards to create an economically optimized intervention strategy for leak detection and pressure management;
- Work with the SCE Consultant in providing an estimate of direct energy savings from such strategy; and
- Work with the SCE Consultant to estimate indirect “embedded” energy savings from such strategy, including all energy upstream of the water agency to the source.

Task 3 Deliverables:

Task 3 Deliverables: Deliverables	Due Dates
1. Provide economically optimized intervention strategy including an economic level of leakage (ELL) report and estimated direct and embedded energy savings	NTP plus 120 Business Days.

Task 4: Implementation of Water Leak Detection Program

The Willdan Team will support each SBCCOG participating city with the following:

- Provide a plan to implement a comprehensive “leak survey” in accordance with the findings in Task 2. This plan shall include, but not be limited to the following elements:
 - Leak detection kick-off meeting;
 - Review of water system maps leading to the creation of a routing plan;
 - Comprehensive leak survey;
 - Detailed leak reports;
 - Anything else needed to adhere to AWWA best practice standards.

- Implement plan to repair the identified leaks with full disclosure of all results and findings.

Task 4 Deliverables: Deliverables	Due Dates
1. Submit detailed leak detection plan	NTP plus 120 Business Days.
2. Submit comprehensive leak survey report with all results and findings	NTP plus 160 Business

Task 5: Implementation of Water System Pressure Management Program

Where feasible, a reduction in system pressure will reduce system leakage losses from existing leaks and will also reduce the frequency of new leaks occurring.

The Willdan Team will support each SBCCOG participating city with the following:

- Advise SCE on, and develop a plan regarding, methods to reduce water system line pressures while maintaining effective service pressures;
- Provide SCE full disclosure of all results and findings that are garnered from the implementation of the plan to apply water pressure management practices. Implementation of the practices are not part of this Program budget; and
- Provide any and all data requested by Consultant related to implementation of its plan to apply water pressure management practices.

Task 5 Deliverables: Deliverables	Due Dates
1. Provide pressure management plan	NTP plus 100 Business Days.
2. Report on preliminary results from pressure management program	NTP plus 180 Business Days.
3. Submit final report of results from pressure management program	To be coordinated with Consultant.
4. Respond to any and all data requests from Consultant	As needed

Task 6: Develop Program Design, Quantify Energy Savings and Evaluate Cost Effectiveness

The Willdan Team shall collaborate with SCE's Consultant to provide any and all necessary data to support Program design, energy savings quantification and cost-effectiveness evaluations.

Task 6 Deliverables: Deliverables	Due Dates
1. Ongoing check-in meetings with Implementation Teams	Scheduled twice monthly with each team
2. Feedback on technical memorandum describing proposed embedded energy savings methodology	Within 5 Business Days of receiving draft
3. Feedback on draft energy savings report per SCE's direction	Within 5 Business Days of receiving draft

Task 7: Create a Strategic Plan for Commercialization of the Water Loss Control Program in SCE's Territory

The Willdan Team shall collaborate with SCE's Consultant to provide any and all necessary data to support the creation of a strategic plan for commercialization of the Water Loss Control Program.

Task 7 Deliverables: Deliverables	Due Dates
1. Feedback on outline of report elements and commercialization strategies	Within 5 Business Days of receiving draft report
2. Feedback on draft program design whitepaper	Within 5 Business Days of receiving draft whitepaper
3. Feedback on draft strategic plan	Within 5 Business Days of receiving draft strategic plan

Task 8: Marketing and Outreach

The Willdan Team shall collaborate with SCE's Consultant to provide any and all necessary data to support the marketing and outreach for this Program.

Task 8 Deliverables: Deliverables	Due Dates
1. Feedback on Consultant presentation on WLDP and expected Program design strategies	Within 5 Business Days of receiving draft

Budget Summary

The Willdan Team will not exceed the total amount budgeted (subcontractor portion) by SCE for this program of **\$371,371**. The hourly rate schedule provided in Table 1 is based on the successful Water Leak Detection proposal approved by SCE.

TABLE 1: FULLY BURDENED HOURLY RATES BY TITLE

Staffing Direct Labor (Willdan Team)	Team Member	Company	Responsibility	Hourly Rate
Project Director	Reinhard Sturm	WSO	The Project Director will be involved in all tasks of this project. He will be responsible to lead the tasks 1, 2, 3, 4, and 5. In his position he will be responsible for the technical integrity of the project, application of innovative strategies and techniques, quality control and the technical oversight.	\$200
Technical Project Advisor	Steven Preston	WSO	The Technical Project Advisor will provide technical input for tasks 2, 3, 4 and 5.	\$220
Project Manager	Katherine Gasner	WSO	The Project Manager will assist the Technical Project Advisor and Project Director with project management tasks, data collection and standardization, and data analysis.	\$140
Project Engineer	Timothy Wilson	WSO	The Project Engineer will assist with data collection, field tests and assessments, DMA measurements, and data analysis.	\$120
Leak Detection Specialist	Cliff McAfee	WSO	The Leak Detection Specialist will carry out the detailed leak detection efforts in the participating utilities	\$85
Project Manager	James Ward	Willdan	The Project Manager will manage the day to day activities for Willdan, providing energy analysis and coordination with team members and ensure energy related collaboration with Consultant B staff.	\$120
Principal-in-Charge	Katie Wilson	Willdan	The Principal-in-Charge will provide management oversight of the project ensuring quality and establishing quality control procedures.	\$205
Project Engineer	Jonathan Pera	Willdan	The Project Engineer will lead engineering efforts in energy analysis and quantification of direct and embedded energy savings.	\$180
Project Engineer	Chikezie Nzewi	Willdan	The Project Engineer will provide engineering oversight, ensuring the technical integrity of the project.	\$185