

RESOLUTION NO. 1138

A RESOLUTION OF THE CITY OF WILSONVILLE EXTENDING THE TRAFFIC ENGINEERING SERVICES AGREEMENT WITH DKS ASSOCIATES, INC. FROM SEPTEMBER, 1994 TO MARCH, 1995; VERIFYING THE FUNDING SOURCE AND AUTHORIZING THE EXPENDITURE OF FUNDS.

WHEREAS, on July 16, 1992, an interview team, consisting of the Transportation Advisory Commission Chairman Ron Anderson; George Jacobs, Civil Engineer; Eldon Johansen, Community Development Director; and Jim Long, Design and Survey Technician, evaluated presentations from the four firms that had proposed to provide traffic impact analyses for developments within the City, and

WHEREAS, the interview team recommended that the Engineering Services Agreement be awarded to DKS Associates, Inc.; and

WHEREAS, by Resolution No. 945, which was adopted by the City Council on August 17, 1992, Council approved the Engineering Services Agreement; and

WHEREAS, the original request for proposals for this project was based on a twelve month Engineering Services Agreement with a yearly renewal option; and

WHEREAS, the traffic impact analyses, and related traffic engineering work performed by DKS Associates, Inc. on the Traffic Management Ordinance and the Supplemental Street System Development Ordinance is of continuing importance to the City which may require further technical assistance from DKS Associates, Inc.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. That the City Engineer of the City of Wilsonville is authorized to amend the Engineering Services Agreement with DKS Associates, Inc. to provide traffic engineering services on an as-needed basis through March 12, 1995.

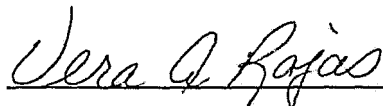
2. That the estimated project expenditures to DKS Associates, Inc. to complete the traffic studies for each development will be collected from the developers and deposited for expenditure for DKS Associates, Inc. from Account No.

<u>Fund</u>	<u>Dept.</u>	<u>Line Item</u>	<u>Budgeted</u>
110	42420	2231	\$30,000

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 17th day of October 1994, and filed with the Wilsonville City Recorder this date.


GERALD A. KRUMMEL, Mayor

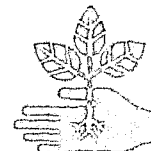
ATTEST:


VERA A ROJAS, CMC/AAE, City Recorder

SUMMARY of Votes:

Mayor Kurmmel	<u>AYE</u>
Councilor Hawkins	<u>AYE</u>
Councilor Benson	<u>ABSENT</u>
Councilor Lehan	<u>AYE</u>
Councilor Sempert	<u>AYE</u>

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City of
WILSONVILLE
in OREGON

30000 SW Town Center Loop E
Wilsonville, Oregon 97070
FAX (503) 682-1015
(503) 682-1011

ENGINEERING DEPARTMENT
STAFF REPORT & RECOMMENDATION

DATE: OCTOBER 17, 1994

TO: HONORABLE MAYOR &
CITY COUNCILORS

FROM: MICHAEL A. STONE, P.E.
CITY ENGINEER

SUBJECT: ON-CALL TRAFFIC ENGINEERING AGREEMENT
DKS ASSOCIATES, INC.

SUMMARY:

The city requires that proposed new developments submit a detailed report which addresses the impact of the development on the transportation system within the city. In an effort to have these reports prepared on a non-bias basis, the city also requires that a traffic engineering firm selected by the city through the qualification based selection process be used in the preparation of these reports.

Staff recommends that the current agreement between the city and DKS Associates, Inc., be extended for a period of 6 months, ending on March 12, 1995.

BACKGROUND:

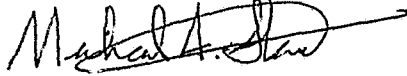
In July of 1992, members of city staff and the Transportation Advisory Commission conducted an evaluation of (4) traffic engineering firms. Based on the results of this evaluation, the interview team recommended DKS Associates, Inc., provide the services.

On August 17, 1992, the Council passed Resolution #945 authorizing the entering into a professional services agreement with DKS Associates, Inc. for a period of (1) year. Subsequently, by Resolution #1036 passed on August 16, 1994, Council authorized extension of the services through September 12, 1994. The (2) suits filed against the city in behalf of the Metropolitan Home Builders Association are based on information prepared by and relied upon by the city in the preparation of the Traffic Management and Supplemental Street System Development Ordinances and Resolutions. For this reason, staff feels that it would be in the best interests of the city to continue the services of DKS Associates, Inc. for the immediate future.

RECOMMENDATION:

Staff requests that the Council authorize the City Engineer to sign an extension of professional services with DKS Associates, Inc. through March 12, 1995.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael A. Stone". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Michael A. Stone, P.E.
City Engineer

MAS/dr

Attachment

MS STF REPR/DKSoncall

**CONSULTANT AGREEMENT
CITY OF WILSONVILLE ON-CALL TRAFFIC ENGINEERING**

THIS AGREEMENT is made and entered into the 12th day of September 1992, and shall be in force until the 12th day of September 1993, by and between City of Wilsonville having a place of business at 30000 SW Town Center Loop E, Wilsonville, OR 97070, hereinafter referred to as CLIENT, and DKS Associates, an Oregon Corporation having a place of business at 921 SW Washington Street, Suite 612, Portland, OR 97205, hereinafter referred to as CONSULTANT.

WHEREAS, CONSULTANT has offered to render certain specialized professional services involving traffic engineering expertise in connection with this PROJECT;

NOW THEREFORE, the parties hereby agree as follows:

- I. In connection with the PROJECT, CONSULTANT shall perform the services set forth in Exhibit A to this AGREEMENT, Task Orders numbered sequentially, which will be attached hereto and is incorporated and made a part of this AGREEMENT by reference. Each Task Order shall identify scope of services, budget and schedule.
- II. In consideration for the satisfactory performance of the services described in Exhibit A, CONSULTANT shall be paid on a time-and-materials basis in accordance with the rates and terms set forth in CONSULTANTS fee schedule, which is attached hereto and is incorporated and made a part of this agreement as Exhibit B, for amounts not to exceed the maximum fee established for work in each task order. CONSULTANT shall submit invoices every four weeks based upon the time and materials expended. CLIENT shall make payment to the CONSULTANT within thirty (30) days of CLIENT'S receipt of CONSULTANTS invoice.
- III. CLIENT may, from time to time, order changes in the Services and the CONSULTANT shall promptly comply with each such order. Each such change shall be directed in writing, and signed by the duly authorized representative of CLIENT. Said change order shall provide an equitable adjustment in the time of performance and compensation, if applicable, as well as any other provisions of the AGREEMENT which are affected by said change order. No work shall be provided in connection with any changes in service by CONSULTANT without authorization from the CLIENT.
- IV. The CONSULTANT and CLIENT each binds itself, its partners, successors, and assigns to this AGREEMENT. CONSULTANT shall not sublet, assign or transfer its interests or any work under this AGREEMENT without the written consent of CLIENT. Notwithstanding the consent of CLIENT to any such assignment, should the CONSULTANT utilize any subconsultants, the CONSULTANT is fully responsible for satisfactory completion of all subcontracted work.

- V. The services to be rendered by the CONSULTANT shall be commenced immediately upon written Notice to Proceed from CLIENT and shall be performed in accordance with the PROJECT Schedule set forth in each Task Order which is incorporated and made a part of this AGREEMENT by reference.
- VI. Drawings, specifications, plans, reports, and other data prepared by the CONSULTANT as instruments of service are the property of CLIENT whether the project for which they are made is executed or not, and upon termination of this AGREEMENT or completion of the services rendered, whichever is earlier, CONSULTANT shall deliver the same to CLIENT. CONSULTANT shall not be held liable for CLIENT's use of documents for purposes other than those intended by this agreement.
- VII. CLIENT may terminate this AGREEMENT at any time, in whole or in part, effective immediately upon delivery of written notification thereof to the CONSULTANT, unless said notice states a later effective date of termination. As of the effective date of termination, CONSULTANT shall cease all work on the project and shall deliver all materials as required by Article VI hereof. In the event of such termination, CLIENT shall pay to CONSULTANT compensation for services actually rendered to the termination date in accordance with the provisions of Article II.
- VIII. The CONSULTANT agrees to defend, indemnify and hold harmless CLIENT, their members, agents, representatives, employees, officers, successors and assigns against any and all losses, damages, claims, liabilities, costs, suits and legal fees, or other expenses including, without limitation, Workers' Compensation suits and breach of contract, which arise out of the negligent acts, errors, or omissions or willful misconduct of CONSULTANT, or its respective officers, employees, representatives, agents or subconsultants, in connection with CONSULTANT's performance of this AGREEMENT; excepting only such liability as is determined by a court or forum of competent jurisdiction to arise out of the sole negligence or willful misconduct of CLIENT.
- IX. Before commencing the performance of its services under this AGREEMENT, the CONSULTANT shall procure and maintain, at its own expense, at least the following insurance in the form and with such limits as are agreeable to CLIENT:
- (a) Workers' Compensation and Employers' Liability Insurance, in accordance with the laws of the state or states in which the CONSULTANT's services are to be performed;
 - (b) Broad Form Commercial General Liability Insurance in the amount of \$1,000,000 per occurrence and in the aggregate;

- (c) Automobile Public Liability and Property Damage Insurance including Owned and Non-Owned Automobiles in the amount of \$1,000,000 per accident; and
- (d) Professional Liability Insurance with a limit of not less than \$1,000,000 per claim and in the aggregate and with a deductible of not more than \$50,000 per claim.

Within fifteen (15) days of execution of this AGREEMENT the CONSULTANT shall furnish CLIENT with appropriate certificates from its insurance companies showing that the above insurance is in force and including specific endorsements providing 30 days notice of cancellation to be given to CLIENT.

X. CONSULTANT shall be an "independent contractor." All persons employed to furnish services hereunder are employees of CONSULTANT and not of CLIENT. CONSULTANT shall be responsible for payment of all Worker's Compensation, matching Social Security taxes, Unemployment Insurance, income tax withholding and other statutory requirements for its employees assigned to any work contemplated by this AGREEMENT. Nothing contained herein shall make CONSULTANT the agent of CLIENT.

XI. CONSULTANT represents and warrants to CLIENT that is duly qualified and has all necessary licenses, certificates, and other qualifications required by regulatory or governmental authorities to render the services contracted, and that the execution of this AGREEMENT and the performance of the services described herein will not result in a breach of any other agreement to which CONSULTANT is a party.

The CONSULTANT warrants that the recommendations, guidance and performance of any person assigned under the AGREEMENT shall be in accordance with sound engineering/technical practice and/or professional standards and the requirements of this AGREEMENT.

XII. All notices hereunder and communications with respect to this AGREEMENT shall be in writing and effective upon the mailing thereof by registered or certified United States mail, return-receipt-requested, postage prepaid and addressed as follows:

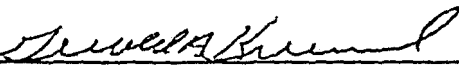
If to CLIENT:
City of Wilsonville
8455 S.W. Elligsen
Wilsonville, OR 97070
Attn: Eldon Johansen,
Community Development Director

If to CONSULTANT
DKS Associates
921 SW Washington Street, Suite 612
Portland, OR 97205
R.S. McCourt

- XIII. Should litigation occur between the two parties relating to the provisions of this AGREEMENT, all litigation expenses, collection expenses, witness fees, court costs and attorneys fees shall be paid by the non-prevailing party to the prevailing party.
- XIV. This AGREEMENT shall be construed, interpreted and applied in accordance with the laws of the State of Oregon. Any action or suite to enforce the provisions of this agreement shall be instituted to the applicable District Circuit Court of Clackamas County.
- XV. If any provision of this AGREEMENT as applied to either party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this AGREEMENT or the validity or enforceability of this AGREEMENT.
- XVI. No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this AGREEMENT, on the grounds of sex, race, color, creed, marital status, age or national origin. Any violation of this provision shall be considered a material violation of this AGREEMENT and shall be grounds for cancellation, termination or suspension in whole or in part by the COUNTY.
- XVII. This AGREEMENT represents the entire AGREEMENT between CLIENT and CONSULTANT and there are no conditions, AGREEMENTS or representations between the parties except as expressed herein. This AGREEMENT may be amended only by written instrument, signed by both CLIENT and CONSULTANT.

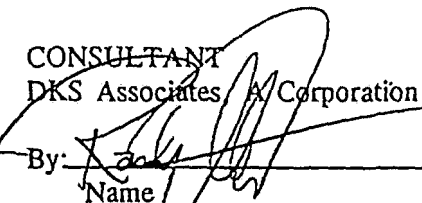
IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed on the day and year first above written.

CLIENT
City of Wilsonville

By: 
Name

By: Mayor
Title

CONSULTANT
DKS Associates, A Corporation

By: 
Name

By: PRINCIPAL
Title

**CONSULTANT AGREEMENT
CITY OF WILSONVILLE ON-CALL TRAFFIC ENGINEERING**

Amendment No. 1


The terms of the September 12, 1992 agreement between City of Wilsonville and DKS Associates shall be amended to read the following:

"The AGREEMENT shall be amended to remain in force until the 12th day of September 1994."

All other terms and conditions shall remain in effect per the AGREEMENT.

IN WITNESS WHEREOF, the parties have caused this amended AGREEMENT to be executed on the dates noted below.

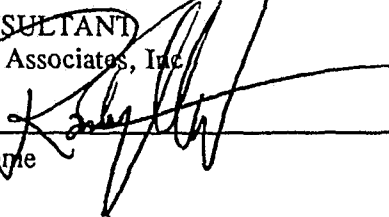
CLIENT
City of Wilsonville

By: 
Name

Title: Mayor

Date: August 16, 1993

CONSULTANT
DKS Associates, Inc.

By: 
Name

Title: PRINCIPAL

Date: 8 JULY 93

**CONSULTANT AGREEMENT
CITY OF WILSONVILLE ON-CALL TRAFFIC ENGINEERING**

Amendment No. 2


The terms of the September 12, 1992 agreement between City of Wilsonville and DKS Associates, amended August 16, 1993, shall now be amended to read the following:

"The AGREEMENT shall be amended to remain in force until the 12th day of March 1995."

All other terms and conditions shall remain in effect per the AGREEMENT.

IN WITNESS WHEREOF, the parties have caused this amended AGREEMENT to be executed on the dates noted below.

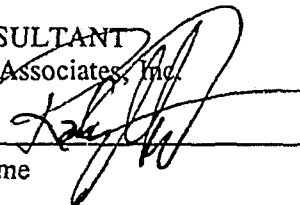
CLIENT
City of Wilsonville

By: 
Name

Title: Mayor

Date: October 17, 1994

CONSULTANT
DKS Associates, Inc.

By: 
Name

Title: PRINCIPAL

Date: SEPTEMBER 8, 1994