

RESOLUTION NO. 1090

A RESOLUTION OF THE CITY OF WILSONVILLE EXEMPTING THE CITY FROM THE COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZING THE CITY MANAGER TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH KPFF CONSULTING ENGINEERS INC., TO PROVIDE PROFESSIONAL SERVICES FOR THE URGENTLY NEEDED RECONSTRUCTION OF THE APPROACHES TO THE BOECKMAN CREEK BRIDGE ON WILSONVILLE ROAD.

WHEREAS, Wilsonville Road has been determined and classified as a arterial street in the adopted Transportation Master Plan of the City; and

WHEREAS, Wilsonville Road provides a major route for vehicular, bike and pedestrian movements within the City; and

WHEREAS, Wilsonville Road provides a major east/west route for the transportation of goods and services into and out of the City; and

WHEREAS, realizing the importance of Wilsonville Road to the social and economic benefits of the City, the City determined the need to upgrade and improve the crossing of Boeckman Creek by Wilsonville Road; and

WHEREAS, the on-grade crossing of Boeckman Creek was determined to be inadequate and was not in the best interest of the City for improvement; and

WHEREAS, the City, in cooperation with the Oregon Department of Transportation (ODOT), determined that the on-grade crossing could be replaced with an elevated structure (bridge) at a location just slightly north of the existing on-grade crossing; and

WHEREAS, the City in cooperation with ODOT designed, secured financing for and constructed the Boeckman Creek Bridge; and

WHEREAS, during the design and construction phases of the bridge construction there was a documented concern expressed over the composition and stability of the soil under the east and west approaches to the bridge structure; and

WHEREAS, the construction of the bridge was completed with additional measures to provide for stabilization of the east and west approaches given the available funding for the project; and

WHEREAS, the bridge was completed and placed into service; and

WHEREAS, after being in service for several years the stability of the approaches again became a concern as settlement and erosion was detected in and around the approaches by City staff; and

WHEREAS, a failure occurred in the pavement on the east approach to the bridge which was repaired by the City staff; and

WHEREAS, the stability of the approaches appeared to be restored after the repairs to the east approach; and

WHEREAS, an earthquake occurred on March 25, 1993 within the area surrounding the City; and

WHEREAS, as a result of the earthquake, public works structures within the City were inspected by City staff; and

WHEREAS, the Boeckman Creek Bridge was inspected and it was determined that the east and west approaches had subsided as a result of the earthquake; and

WHEREAS, the stability of the approaches is again in question as the approaches have appeared to subside since the earthquake; and

WHEREAS, additional erosion under the approaches and pile caps have been found as a result of the inspections by City staff at the time of the earthquake; and

WHEREAS, the City Engineer, wishing to determine the ability of the structure to provide for the safe and efficient movement of vehicles, bikes and pedestrians within the City, retained the services of KPFF Consulting Engineers, Inc., to conduct a preliminary investigation of the bridge and approaches, the extent of the repairs necessary (both to the structure and approaches) and an estimate of the costs for the recommended repairs; and

WHEREAS, the preliminary report was completed and said report indicated that the structure and approaches were in no apparent danger of immediate failure but that repairs to the approaches would be necessary in the not to distant future to prevent any further deterioration of the stability of the approach and structure; and

WHEREAS, in order to properly determine the extent of the actual repairs, additional soils testing is necessary and required; and

WHEREAS, the additional soils testing must be completed during the wet portion of the year when the soils near the approaches and structure is saturated; and

WHEREAS, KPFF Consulting Engineers Inc., has recommended that there is a clear and present need to undertake the soils study, determine the estimated cost for the repairs, and undertake those repairs in the upcoming dry portion of the year; and

WHEREAS, the City engineer concurs with the recommendation of and timing for the soil study and repairs as proposed by KPFF Consulting Engineers Inc.; and

WHEREAS, KPFF Consulting Engineers Inc., has prepared a cost estimate to perform the professional services for the reconstruction of the approaches to the Boeckman Creek Bridge; and

WHEREAS, the City Engineer has reviewed the proposed costs for the professional services to be provided by KPFF Consulting Engineers Inc., and has found these costs to be fair and equitable; and

WHEREAS, if the KPFF Consulting Engineers Inc., provides the professional services for the referenced project additional time savings will be realized to allow the proposed reconstruction to be completed in a timely manner; and

WHEREAS, the City received bids lower than estimated for the reconstruction of Boones Ferry Road between Barber Street and Boeckman Road (project #4002) these remaining funds would cover the anticipated cost of the work requested by the City Engineer from KPFF Consulting Engineers Inc.; and

WHEREAS, the fee for professional services is calculated to be \$50,000; and

WHEREAS, ORS 279.011(5) and Section 2.310(1)(a) of the Wilsonville Code define public contracts as being other than agreements for personal service. The contract to be awarded for engineering services is for personal service; and

WHEREAS, Section 2.312 of the City Code states that "The Council is hereby designated as a Local Contract Review Board and relative to contract concerns for the City, shall have all the powers granted to the State Contract Review Board"; and

WHEREAS, Section 2.314(1) states that "All contracts shall be based upon competitive bid with certain exceptions", which the City interprets to mean public contracts, but in the event it is construed to apply to any contract, the City recites and finds as set forth below; and

WHEREAS, additionally, Section 2.314(2) states that "The Board may, by Resolution, exempt other contracts from competitive bidding if it finds (a) the lack of bids will not result in favoritism or substantially diminish competition in awarding the contract; and (b) the exemption will result in substantial cost savings. In making such a finding, the Board may consider the type, cost amount of the contract, number of persons available to bid and such other factors as the Board may deem appropriate."; and

WHEREAS, Oregon Revised Statutes 279.015 Competitive Bidding Exemptions also allows exemptions as stated in the City Code.

NOW THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:


1. That the City Council, serving in its role as Local Contract Review Board,

does hereby exempt the award of contract for Professional services for the reconstruction of the approaches to the Boeckman Creek Bridge from competitive bidding, and further concludes this award will not deminish competition and will result in substantial cost savings.


2. The City Council, serving as a Local Contract Review Board, does hereby approve and authorize the City Manager to sign an Engineering Services Agreement between the City of Wilsonville and KPFF Consulting Engineers, Inc., a copy of which is marked Exhibit "A", attached hereto and incorporated herein, to provide professional services recited above for the referenced project.
3. Authorize the expenditures for this contract no to exceed budget amount from:

ACCOUNT	BUDGET AMOUNT
5000-540-7704025	\$245,000

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 7th day of March 1994, and filed with the Wilsonville City Recorder this date.


GERALD A. KRUMMEL, Mayor

ATTEST:


VERA A. ROJAS, CMC/AEE, City Recorder

Summary of Votes:

Mayor Krummel	<u>AYE</u>
Councilor Hawkins	<u>AYE</u>
Councilor Benson	<u>AYE</u>
Councilor Lehan	<u>AYE</u>
Councilor Sempert	<u>AYE</u>

**ENGINEERING DEPARTMENT STAFF REPORT
AND RECOMMENDATION**

DATE: FEBRUARY 7, 1994

TO: HONORABLE MAYOR & CITY COUNCILORS
CITY OF WILSONVILLE

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

SUBJECT: Professional Services Agreement with KPFF Consulting Engineers, Inc.
for the reconstruction of the approaches to the Boeckman Creek Bridge on
SW Wilsonville Road.

SUMMARY:

After the earthquake which occurred in the area surrounding the city of Wilsonville in March of 1993, of the bridge over Boeckman Creek was inspected by City Staff. Settlement on the east and west approach was noted as well as severe erosion over the pilecaps and the embankments under the bridge.

As a result of this inspection the City Engineer is recommending that repairs be undertaken to stabilize the approaches, pilecaps, and embankments.

Discussion:

In the early part of the 1980's a need was expressed to relocate and upgrade the Wilsonville Road crossing of Boeckman Creek. After discussions on the possible alternatives it was decided to relocate the existing crossing of Boeckman Creek to the north and construct a bridge to remove the series of turns that existed in Wilsonville Road at that time.

The City of Wilsonville in cooperation with the Oregon Department of Transportation (ODOT) planned, secured funding for and constructed the Boeckman Creek bridge for Wilsonville Road as it currently exists today.

The structure was completed and all appeared well until the latter part of the 1980's when the east approach to the structure failed and a large hole appeared in the asphalt immediately adjacent to the structure. This failure was repaired by City of Wilsonville staff and the structure was again place in service.

As a result of the earthquake which occurred in the area surrounding the City in March of 1993 a routine inspection of public structures after such an occurrence was conducted by Engineering Division Staff. The inspection yielded that the stability of both approaches

was once again in question and that erosion had occurred underneath the pilecaps and embankments which exist under the bridge.

At the request of the City Engineer KPFF conducted an investigation as to the safety of the structure as well as recommendations to restore the stability of the approaches and the embankments as well as prevention of such occurrences in the future.

The KPFF report indicated that there was no apparent danger of the approaches failing or that the erosion had occurred to such a point that the structure was in danger. However, there was a strong recommendation that the work be undertaken as soon as possible to prevent any further erosion which may lead to a lack of stability.

In order to properly address the repairs that must be undertaken the additional soils investigations must be completed to allow the soils engineers to more completely analyze the characteristics of the material in, around and underneath the structure. Once the soil investigations have been completed recommendations on the construction material and methods to be used to restore the bridge.

If this work is started immediately and the necessary tests are complete a construction contract could be led out in the spring with completion in the late summer of 1994.

Funding for the engineering and a portion of the construction funding can be realized with the funds saved as a result of the low bids that were received for the reconstruction of Boones Ferry Road between SW Barber Street and SW Boeckman Road.

The remaining portion of the funds necessary to complete this work are available through the State of Oregon ISTE A funding mechanism. The City has made the necessary applications to the Oregon Department of Transportation the necessary agreements have been prepared and are awaiting execution at ODOT offices before being forwarded along with the requested funds to the City.

RECOMMENDATION:

Based on the need to study the bridge in the current wet season and repair the Boeckman Creek Bridge in the upcoming construction season staff respectfully request City Council approval of the accompanying resolution.

Respectfully submitted,



Michael A. Stone, P.E.
City Engineer

EXHIBIT "A"

PROFESSIONAL SERVICES AGREEMENT

**FOR DESIGN, BIDDING AND CONSTRUCTION ENGINEERING SERVICES
FOR THE URGENTLY NEEDED RECONSTRUCTION OF THE APPROACHES
TO THE BOECKMAN CREEK BRIDGE ON WILSONVILLE ROAD**

WILSONVILLE, OREGON

This AGREEMENT is made and entered into by and between KPFF Consulting Engineers Inc. ("CONSULTANT" herein) and the City of Wilsonville, a political subdivision of the State of Oregon ("CITY" herein).

ARTICLE 1. PURPOSE OF AGREEMENT

- 1.1 The purpose of this AGREEMENT shall be to set forth responsibilities and to clarify the relationship between the CITY and the CONSULTANT. CONSULTANT shall supply professional services as herein described. In consideration for said services the CITY shall pay the CONSULTANT such monies and in such manner as herein described.

ARTICLE 2. WHOLE AGREEMENT

- 2.1 This AGREEMENT is the complete and exclusive statement of the AGREEMENT between the parties relevant to the purpose described above and supersedes all prior agreements or proposals, oral or written, and all another communication between the parties relating to the subject matter of this AGREEMENT. No modification of this AGREEMENT will be binding on either party except as a written addendum, signed by an authorized agent of each party.

ARTICLE 3. EFFECTIVE DATE OF AGREEMENT

- 3.1 This AGREEMENT shall be effective after signing by both parties and upon issuance of a written notice to proceed by the CITY.

ARTICLE 4. WRITTEN NOTICE

- 4.1 Any notice of change, termination or other communication having a material effect on this AGREEMENT shall be served in one or more of the following manners:
- a. In-person delivery to and signed acknowledgment of receipt by an authorized officer, employee, agent or other representative of the contracting parties.
 - b. Deposited in the U.S. mails posted to the address(es) given in this document.

ARTICLE 5. GOVERNING LAW/VENUE

- 5.1 This AGREEMENT shall be governed by the laws of the State of Oregon. Any action or suit commenced in connection with this AGREEMENT shall be in the Circuit Court of Clackamas County. The prevailing party shall be entitled to reasonable attorney fees and costs as awarded by the court.
- 5.2 All rights and remedies of the parties hereto shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies according to law. It is agreed that fifteen (15) calendar days shall constitute reasonable notice for the exercise of any right in the event that applicable law specifically required such notice.

ARTICLE 6. OREGON REVISED STATUTES

- 6.1 All requirements of the Oregon Revised Statutes Nos. 279.310 through 279.430, Public Contracting, as applicable, are incorporated herein by reference.

ARTICLE 7. JUDICIAL RULINGS

- 7.1 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 the AGREEMENT or the validity or enforceability of this AGREEMENT.

ARTICLE 8. NONDISCRIMINATION

- 8.1 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 CITY.

ARTICLE 9. DUTIES AND RESPONSIBILITIES OF THE CONTRACTOR

- 9.1 The CONSULTANT shall perform services as described in Attachment "A" (Scope of Work), attached hereto and by this reference made a part hereof.

ARTICLE 10. STANDARD OF SERVICES AND WARRANTY

- 10.1 The CONSULTANT agrees to perform his services with that standard of care, skill and diligence normally provided by a professional individual in the performance of similar services. It is understood that the CONSULTANT must perform the services based in part on information furnished by the CITY and that the CONSULTANT shall be entitled to rely on such information. However, the CONSULTANT is given notice that the CITY will be relying on the accuracy, competence and completeness of the CONSULTANT'S services in utilizing the results of such services.

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

ARTICLE 11. INDEPENDENT AGENT

- 11.1 The CONSULTANT shall be an "independent agent". All persons employed to furnish services hereunder are employees of the CONSULTANT and not of the CITY. Further, the CITY shall not be liable for any of CONSULTANT'S acts or omissions performed under this or other agreements to which CONSULTANT is a party.

ARTICLE 12. IDENTIFICATION AND INSURANCE

- 12.1 CONSULTANT shall save harmless and indemnify CITY, its Commissioners, employees and agents for any and all claims, damages, losses and expenses, including but not limited to reasonable attorney's fees arising out of or resulting from negligent performance of or failure to perform the obligations of the AGREEMENT.
- 12.2 The CONSULTANT shall purchase and maintain insurance at his expense, and shall provide certification to the CITY-of insurance in the types and amounts specified in Attachment "B" (Insurance), attached hereto and by this reference made a part hereof.

ARTICLE 13. SUBCONTRACTING

- 13.1 No portion of the AGREEMENT may be subcontracted to any other individual, firm or entity, except as may be set forth in Attachment "A", without the express and prior approval of the CITY.

ARTICLE 14. NON ASSIGNMENT

- 14.1 No portion of nor any interest in this AGREEMENT may be assigned to a third party, except as may be set forth in ATTACHMENT "A", without the express and prior approval of the CITY.

ARTICLE 15. FUNDING

- 15.1 In the event the City Council of the City of Wilsonville or other governing authority reduces, changes, eliminates, or otherwise modifies the funding for any of the projects identified herein, the CONSULTANT agrees to abide by any such decision including termination of service.

ARTICLE 16. CITY PRIORITIES

- 16.1 The CONSULTANT shall comply promptly with any requests by the CITY relating to the emphasis or relative emphasis to be placed on various aspects of the work or to such other matters pertaining to said work.

ARTICLE 17. PUBLICITY

- 17.1 CONSULTANT shall not use in its external advertising, marketing programs, or other promotional efforts, any data, pictures or other representations of the CITY except on prior specific written authorization from CITY.

ARTICLE 18. USE OF CITY FACILITIES

- 18.1 CONSULTANT and its employees or agents shall have the right to use only those facilities of the CITY that are necessary to perform services under this AGREEMENT and shall have no right of access to any other facilities of the CITY without the prior approval of the CITY.

ARTICLE 19. FEES AND PAYMENT

- 19.1 The CITY agrees to pay the CONSULTANT for services performed pursuant to this AGREEMENT according to the terms and amounts specified in Attachment "C" (Fees and Payment), attached hereto and by this reference made a part hereof. Said payment shall cover all costs associated with the performance of services as described in ATTACHMENT "A". The CITY shall have no liability for taxes, insurance or other expenses associated with the performance of CONSULTANT'S duties hereunder.

ARTICLE 21. CHANGES

- 21.1 The fee specified herein shall include all services specified herein. Any change in the frequency or type of services shall cause the fee to be adjusted plus or minus accordingly; provided, however, any fee increases will require written approval by the City of Wilsonville.

ARTICLE 22. OWNERSHIP OF WORK PRODUCT

- 22.1 All work products of the CONSULTANT which result from this AGREEMENT are the exclusive property of the CITY.

ARTICLE 23. TERMINATION OF AGREEMENT

- 23.1 This AGREEMENT may be terminated under the following conditions:
- a. By written mutual agreement of both parties. Termination under this provision may be immediate.
 - b. Upon thirty (30) calendar days written notice by either party to the other of intent to terminate.
 - c. If this AGREEMENT is terminated by either party, the CITY agrees to pay to the CONSULTANT all costs and expenses associated with services provided to the effective date of termination. Moneys due and payable will be calculated based on actual costs and the schedule set forth in Attachment ~A".

ARTICLE 24. SURVIVAL

24.1 The terms, conditions, representations, and all warranties contained in this AGREEMENT shall survive the termination or expiration of this AGREEMENT.

The CONSULTANT and the CITY hereby agree to all provisions of this AGREEMENT.

FOR THE CONSULTANT

FOR THE CITY OF WILSONVILLE

STUART L. CATO



CITY MANAGER

ASSOCIATE



RECORDING SECRETARY

KPFF Consulting Engineers Inc.
FIRM

3-16-94
DATE

707 S.W. Washington, Suite 600
ADDRESS

MAILING ADDRESS
30000 S.W. Town Center Loop East
Wilsonville, OR 97070

Portland, OR 97205-3523
CITY AND STATE

91-07-5589
EMPLOYER IDENTIFICATION NO.

DATE

Attachment "A"

**SCOPE OF WORK
RECONSTRUCTION OF THE APPROACHES TO THE BOECKMAN CREEK
BRIDGE ON WILSONVILLE ROAD**

The work consists generally of design, bidding and limited construction engineering services for Reconstruction of the approaches to the Boeckman Creek Bridge.

KPFF RESPONSIBILITIES

A. DESIGN SERVICES

1. Prepare topographic information of site within the general area of the approaches. Conduct new soil characteristic investigations.
2. Review as-built plans of existing bridge .
3. Review pertinent soil material information and prepare a new Geotechnical solution for re-construction of the approaches.
4. Prepare plans and specifications for re-construction of the approaches.
5. Meet with City staff to establish detour, design and construction timelines and methods.
6. Provide City staff with 60% and 80% plans and specifications for review.
7. Provide City Auto-Cad Version 12 copies of final design plans on 3 1/2 inch diskettes.

B. BIDDING SERVICES

1. Answer City staff and contractor questions during the bidding process.
2. Attend bid opening.
3. Assist the City staff in the review of the three lowest bids and recommend award.
4. Attend pre-construction meeting.

C. PROJECT MANAGEMENT

1. Answer City staff and contractor questions during construction.
2. Review shop drawing.
3. Review change order requests.
4. Visit site (4) times to observe construction progress.

D. ADDITIONAL SERVICES

It is agreed that additional services, if required by the CITY will be authorized by work orders, which will specify in detail the scope and requirements of such additional services.

For scope of work and requirements including the time of completion for each work order shall be as mutually agreed upon between the CITY and CONSULTANT.

Compensation for these services shall be paid by the CITY at a rate as mutually agreed upon between the CITY and the CONSULTANT.

All of the above services would be done by KPFF Consulting Engineers, Inc., Geotechnical & Resources, Inc.

E. CITY RESPONSIBILITIES

1. Arrange for public and private utility locations at and around the approaches.
2. Provide construction inspection, testing and prepare pay estimates.
3. Provide as-constructed plans, maps and copies of pertinent file data for existing site.
4. Pothole utilities, as need, prior to site survey.
5. Conduct public meeting, if needed , and respond to citizen inquiries concerning project.
6. Prepare bid documents.

ATTACHMENT "B"

INSURANCE

The CONSULTANT shall purchase and maintain, at his expense, the following types of insurance covering the CONSULTANT, his employees and agents.

1. Workers' Compensation with limits as required by statute. Employer's liability shall be a minimum of \$100,000.
2. Comprehensive general liability insurance covering personal injury & property damage, in an amount not less than \$50,000 for property damage, and \$500,000 per occurrence.
3. Automobile liability insurance in an amount not less than \$50,000 for property damage, and \$500,000 per occurrence.
4. Professional liability insurance covering any personal injury or property damage caused by error, omission, or any negligent act, in an amount not less than \$500,000 per occurrence.

The City of Wilsonville, its Council members, employees and agents shall be Named Insured for Items No. 2 and 3 above.

A copy of the policy or Certificate of Insurance acceptable to the CITY shall be filed with the CITY prior to the effective date of this AGREEMENT. The policy or Certificate of Insurance shall provide for thirty (30) days' notice of cancellation or material change.

(11474 . INS)

ATTACHMENT "C"

FEES AND PAYMENT

CONSULTANT agrees to perform the work tasks identified in Attachment "A"- Scope of Work Payment shall be made to the CONSULTANT for all work performed as included in Attachment "A". Payment to CONSULTANT shall be due upon receipt of itemized invoice and CITY agrees to make payment within 30 days thereafter.

Compensation for these services to be paid to KPFF Consulting Engineers, Inc. shall be in accordance with the following payment schedule. Without prior authorization from the CITY, the total compensation under this agreement shall not exceed amounts listed below.

PAYMENT SCHEDULE

DESIGN, BIDDING & PROJECT MANAGEMENT SERVICES

Billing shall be on an hourly basis, in accordance with the attached schedule, as the work progresses, with a not to exceed figure of \$50,000.

Attachment "C"
HOURLY RATE SCHEDULE
KPFF Consulting Engineer, Inc.

EFFECTIVE THROUGH 12/31/93

Description	Rates
Principal	\$85
Project Manager/Associate	\$75 - 80
Project Engineer	\$50 - 65
Design Engineer/Designer	\$41 - 56
Draftsperson/Technician	\$30 - 46
Clerical	\$26
CASS/Computer	\$25

Field	Rates
Resident Engineer	\$55
Resident Inspector	\$44

Field	Rates
Subcontractor	Cost plus 10%

Expense	Rates
Mileage	\$0.25 per mile
All other (printing, telephone, travel, etc.)	Cost plus 10%