

RESOLUTION NO. 1282

A RESOLUTION APPROPRIATING FUNDS AS PROVIDED IN THE ADOPTED BUDGET FOR FISCAL YEAR 1996-97.

WHEREAS, the City Council of the City of Wilsonville has adopted a budget for the fiscal year beginning July 1, 1996 and ending June 30, 1997; and,

WHEREAS, ORS 294.435 (1) requires the adopted budget to be appropriated by fund and requirement category.

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

1. The amounts for the fiscal year beginning July 1, 1996, and for the purposes shown below, are hereby appropriated as follows:

General Fund

Personal Services	\$3,652,936	
Materials and Services	2,700,344	
Capital Outlay	190,587	
Debt Service	32,059	
Transfers to Other Funds	166,936	
Contingency	637,162	
Total Fund Appropriations		\$7,380,024

Serial Tax Levy Fund

Transfers to Other Funds	\$1,727,000	
Contingency	480,395	
Total Fund Appropriations		\$2,207,395

General Obligation Debt Service Fund

Debt Service	\$248,578	
Total Fund Appropriations		\$248,578

Fleet Service Fund

Personal Services	\$243,090	
Materials and Services	309,184	
Capital Outlay	32,500	
Contingency	143,386	
Total Fund Appropriations		\$728,160

Sewer Fund

Personal Services	\$422,556	
Materials and Services	304,750	
Capital Outlay	12,400	
Debt Service	759,786	
Transfers to Other Funds	582,534	
Contingency	37,220	
Total Fund Appropriations		\$2,119,246

Water Fund

Personal Services	\$264,762	
Materials and Services	328,900	
Debt Service	206,165	
Transfers to Other Funds	1,799,035	
Contingency	1,196,047	
Total Fund Appropriations		\$3,794,909

Road Fund

Personal Services	\$283,196	
Materials and Services	237,775	
Capital Outlay	151,500	
Debt Service	7,110	
Transfers to Other Funds	319,267	
Contingency	33,737	
Total Fund Appropriations		\$1,032,585

Road Utility Fund

Capital Outlay	398,600	
Transfers to Other Funds	16,800	
Contingency	20,600	
Total Fund Appropriations		\$436,000

Street Lighting Fund

Materials and Services	\$222,000	
Transfers to Other Funds	253,000	
Contingency	11,416	
Total Fund Appropriations		\$486,416

Transit Fund

Personal Services	\$678,984	
Materials and Services	143,953	
Capital Outlay	126,000	
Transfers to Other Funds	747,119	
Contingency	193,979	
Total Fund Appropriations		\$1,890,035

Federal Grants Fund

Capital Outlay	<u>\$380,000</u>	
Total Fund Appropriations		\$380,000

Library Non-Expendable Endowment Fund

Materials and Services	<u>\$1,535</u>	
Total Fund Appropriations		\$1,535

Library Expendable Endowment Fund

Material and Services	\$70,000	
Contingency	<u>425,000</u>	
Total Fund Appropriations		\$495,000

LID #4 Debt Service Fund

Debt Service	<u>\$98,890</u>	
Total Fund Appropriations		\$98,890

LID #5 Debt Service Fund

Debt Service	<u>\$185,215</u>	
Total Fund Appropriations		\$185,215

LID #7 Debt Service Fund

Debt Service	<u>\$65,430</u>	
Total Fund Appropriations		\$65,430

LID #10 Debt Service Fund

Debt Service	<u>\$135,172</u>	
Total Fund Appropriations		\$135,172

LID #11 Debt Service Fund

Debt Service	<u>\$92,826</u>	
Total Fund Appropriations		\$92,826

LID #12 Debt Service Fund

Debt Service	<u>\$4,180,000</u>	
Total Fund Appropriations		\$4,180,000

Sewer Capital Projects Fund		
Capital Outlay	\$9,469,400	
Transfers to Other Funds	69,090	
Contingency	<u>272,710</u>	
Total Fund Appropriations		\$9,811,200

Water Capital Projects Fund		
Capital Outlay	\$1,433,200	
Transfers to Other Funds	45,910	
Contingency	<u>83,911</u>	
Total Fund Appropriations		\$1,563,021

Road Capital Projects Fund		
Capital Outlay	\$6,669,000	
Transfers to Other Funds	390,728	
Contingency	<u>112,893</u>	
Total Fund Appropriations		\$7,172,621

Building Capital Projects Fund		
Capital Outlay	\$165,000	
Contingency	<u>17,708</u>	
Total Fund Appropriations		\$182,708

Parks Capital Projects Fund		
Capital Outlay	\$760,222	
Transfers to Other Funds	19,600	
Contingency	<u>323,220</u>	
Total Fund Appropriations		\$1,103,042

Sewer Development Charges Fund		
Transfers to Other Funds	\$1,539,395	
Contingency	<u>36,184</u>	
Total Fund Appropriations		\$1,575,579

Water Development Charges Fund		
Transfers to Other Funds	\$289,175	
Contingency	<u>613,533</u>	
Total Fund Appropriations		\$902,708

Road Development Charges Fund		
Transfers to Other Funds	\$2,933,428	
Contingency	<u>1,101,548</u>	
Total Fund Appropriations		\$4,034,976

Storm Drain Development Charges Fund		
Transfers to Other Funds	\$163,800	
Contingency	<u>218,873</u>	
Total Fund Appropriations		\$382,673

Parks Development Charges Fund		
Transfers to Other Funds	\$511,600	
Contingency	<u>586,653</u>	
Total Fund Appropriations		\$1,098,253

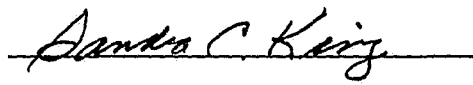
**Total City Appropriations - All
Funds**

\$53,784,197

ADOPTED by the Wilsonville City Council at a regularly scheduled meeting thereof this 17th day of June, 1996 and filed with the City Recorder this date.


GERALD A. KRUMMEL, Mayor

ATTEST:


SANDRA C. KING, City Recorder

SUMMARY of Votes:

Mayor Krummel	Yes
Councilor Lehan	Yes
Councilor Leahy	Yes
Councilor Hawkins	Yes
Councilor MacDonald	Yes

EXHIBIT A

CITY OF WILSONVILLE PROFESSIONAL SERVICES AGREEMENT CANYON CREEK ROAD NORTH -- PHASE 2

THIS AGREEMENT is made and entered into as of the date first indicated on the signature page, by and between the City of Wilsonville, Wilsonville, Oregon (hereinafter referred to as the "City"), and David Evans and Associates, Inc., 2828 SW Corbett Avenue, Portland, OR 97201-4830 (hereinafter referred to as "Consultant").

WHEREAS, City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that it is qualified on the basis of specialized experience and technical competence and prepared to provide such services as City does hereinafter require;

NOW, THEREFORE, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agreed as follows:

A. Term

The term of this Agreement shall be from the date of execution by both parties until tasks required hereunder are complete and accepted, unless earlier terminated in accordance herewith.

B. Consultant's Services

- B.1 The scope of Consultant's services and time of performance under this Agreement are set forth as Phase 2 Consultant Responsibilities in Exhibit A. All provisions and covenants contained in Exhibit A are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.
- B.2 All written documents, drawings, and plans submitted by Consultant and intended to be relied on for the project shall bear the signature, stamp or initials of Consultant or Consultant's authorized Project Manager. Any documents submitted by Consultant which do not bear Consultant's signature, stamp or initials or those of the Consultant's authorized Project Manager shall not be relied upon by City. Interpretation of plans and answers to questions covering Plans given by Consultant or Consultant's Project Manager need not be put in writing unless requested by the City and may be relied upon by City.
- B.3 All agreements on the Consultant's part are contingent upon, and the Consultant shall not be responsible for damages or be in default or be deemed to be in default by reason of delays in performance due to third party: strikes, lockouts, accidents; acts of God; other delays unavoidable or beyond the Consultant's reasonable control, or due to shortages or unavailability of labor at established area wage rates or delays caused by failure of the City or City's agents to furnish information or to approve or disapprove the Consultant's work promptly, or due to late or slow, or faulty performance by the City, other contractors, other consultants not under Consultant's control or governmental agencies, the performance of whose work is precedent to or concurrent with the performance of the Consultant's work. In the case of the happening of any such cause of delay, the time of completion shall be extended accordingly.

- B.4 The existence of this Agreement between City and Consultant shall not be construed as City's promise or assurance that Consultant will be retained for future services unrelated to this public works project.
- B.5 Consultant shall maintain confidentiality of any private confidential information and any public information which is exempt from disclosure under state or federal law to which the Consultant may have access by reason of this Agreement. Consultant warrants that its employees assigned to work on services provided in this Agreement shall maintain confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.
- B.6 Consultant agrees to complete in satisfactory, proper and timely manner the services described in attached Exhibit A.

C. Compensation

- C.1 Except as otherwise set forth in this Section C, City agrees to pay Consultant not more than \$259,000.00 for performance of those services provided hereunder. However, compensation may be less than such maximum amount and shall be actually determined on an hourly basis as shown on the Rate Schedule attached as Exhibit B which is attached hereto and incorporated herein. Compensation shall be only for actual hours worked on this project and related direct expenses. Consultant shall furnish with each bill for services an itemized statement showing the amount of hours devoted to the project by Consultant as well as any agents or employees of Consultant and any direct expenses.
- C.2 During the course of Consultant's performance, if City or its Project Manager specifically requests Consultant to provide additional services which are beyond the scope of the services described on Exhibit A, Consultant shall provide such additional services and bill the City at the hourly rates outlined on the attached Standard Hourly Rate Schedule, provided the parties comply with the requirements of Section Q. No compensation for additional services shall be paid or owing unless both parties specifically agree to such additional compensation and services.
- C.3 Unless expressly set forth on Exhibit A as a reimbursable expense item, Consultant shall only be entitled to the compensation amount specified in subsections C.1 and C.2. Only those reimbursable expenses which are set forth on Exhibit A and itemized on Consultant's bills for services shall be the basis for which payment of those expenses by City shall be owing.
- C.4 Except for amounts withheld by City pursuant to this agreement, Consultant will be paid for services for which an itemized bill is received by City within 30 days.
- C.5 City shall be responsible for payment of required fees, payable to governmental agencies including, but not limited to plan checking, land use, zoning and all other similar fees resulting from this project, and not specifically covered by Exhibit A.
- C.6 Consultant's compensation rate includes but is not limited to salaries or wages plus fringe benefits and contributions including payroll taxes, workers' compensation insurance, liability insurance, pension benefits and similar contributions and benefits.
- C.7 In the event Consultant's responsibilities as described on Exhibit A have been separated into two or more phases, then Consultant shall not be entitled to any

compensation for work performed directly on a later category of responsibilities unless and until City specifically directs that Consultant proceed with such work.

D. City's Project Manager

City's Project Manager is Michael A. Stone or his designee.

E. Consultant's Project Manager

Consultant's Project Manager is David Bick and Principal-in-Charge is Bruce Magnuson. In the event that Consultant's designated Project Manager or Principal-in-Charge are changed, Consultant shall give City prompt written notification of such redesignation. In the event that City receives any communication from Consultant of whatsoever nature which is not executed by Consultant's designated Project Manager, City may request clarification by Consultant's Project Manager, which shall be promptly furnished.

F. Project Information

City shall provide full information regarding its requirements for the Project. Consultant agrees to share all project information, to fully cooperate with all corporations, firms, contractors, public utilities, governmental entities, and persons involved in or associated with the Project. No information, news or press releases related to the Project, whether made to representatives of newspaper, magazines or television and radio stations, shall be made without the authorization of City's Project Manager.

G. Duty to Inform

If at any time during the performance of this Agreement, or any future phase of this Agreement for which Consultant has been retained, Consultant becomes aware of actual or potential problems, faults or defects in the project or any portion thereof, any nonconformance with the federal, state or local law, rule, or regulation, or has any objection to any decision or order made by City with respect to such laws, rules or regulations, Consultant shall give prompt written notice thereof to City's Project Manager. Any delay or failure on the part of City to provide a written response to Consultant shall neither constitute agreement with nor acquiescence to Consultant's statement or claim, nor constitute a waiver of any of City's rights.

H. Consultant is Independent Contractor

H.1 Consultant shall be and herein declares that it is an independent contractor for all purposes and shall be entitled to no compensation other than compensation provided for under Section C of this Agreement. Consultant binds itself, its partners, officers, successors, assigns and legal representatives to the City. Consultant shall be completely independent and solely determine the manner and means of accomplishing the end result of this Agreement, and City does not have the right to control or interfere with the manner or method of accomplishing said results. City, however, has the right to specify and control the results of the Consultant's responsibilities.

H.2 Subcontracting: City understands and agrees that only those special consulting services identified on Exhibit A may be performed by those persons identified on Exhibit A and not by Consultant. Consultant acknowledges such services are provided to City pursuant to a subcontract(s) between Consultant and those who provide such services. Consultant may not utilize any subcontractors or in any

way assign its responsibility under the Agreement without first obtaining the express written consent of the City.

- H.3 Consultant shall be responsible for and indemnify and defend City against any liability, cost or damage arising out of Consultant's use of such subcontractor(s) and subcontractor's negligent acts, omissions, or errors. Subcontractors will be required to meet the same insurance requirements of Consultant under this Agreement. Unless otherwise specifically agreed to by City, Consultant shall require that subcontractors also comply with and be subject to the provisions of this Section H.
- H.4 Consultant shall make prompt payment of any claim for labor, materials or services furnished to the Consultant by any person in connection with this Agreement as such claim becomes due. Consultant shall not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of the Consultant. If the Consultant fails, neglects or refuses to make prompt payment of any such claim, the City may pay such claim to the person furnishing the labor, materials or services and charge the amount of the payment against funds due or to become due the Consultant under this Agreement.
- H.5 No person shall be employed under the terms of this agreement as described herein in violation of all wage and hour laws.
- H.6 Consultant shall make prompt payment as due to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Consultant of all sums which the Consultant agrees to pay for such services and all monies and sums which the Consultant collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- H.7 Should Consultant elect to utilize employees on any aspect of this Agreement, Consultant shall be fully responsible for payment of all withholding required by law, including but not limited to taxes, including payroll, income, Social Security (FICA) and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions and all other charges on account of any employees. Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall indemnify, defend and hold City harmless from claims for payment of all such expenses. Unless otherwise expressly set forth on Exhibit A as a reimbursable expense item, specific costs associated with items set forth in this paragraph shall be deemed as fully and conclusively included in the rate upon which consultants compensation is based.
- H.8 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, disability or national origin. Any violation of this provision shall be grounds for cancellation, termination or suspension of the Agreement in whole or in part by the City.

I. Indemnity and Insurance

- I.1 Consultant acknowledges responsibility for liability arising out of the performance of this Agreement and the attachments thereto, and all liability resulting from or incidental to the acts, performance or errors or omissions of the Consultant or anyone acting on behalf of Consultant in connection with or incidental to the work performed under the contract. Consultant shall hold City harmless from and indemnify City of any and all liability, settlements, loss, costs, expenses, attorney's fees and damages in connection with any action, suit, or claim resulting or allegedly resulting from Consultant's negligent acts, omissions, errors or willful misconduct provided pursuant to this Agreement or from Consultant's failure to perform its responsibilities as set forth in this agreement. The review, approval or acceptance by City, its Project manager or City of Wilsonville employees of documents or other work prepared or submitted by Consultant shall not relieve Consultant of its responsibility to provide such materials in full conformity with City's requirements as set forth in this Agreement and to indemnify City from any and all costs and damages resulting from Consultant's failure to adhere to the standard of performance described in Section I.2.3. The provisions of this section shall survive termination of this Agreement.
- I.2 Insurance Requirements and Consultant's Standard of Care.
- I.2.1 Consultant shall provide City with evidence of the following insurance coverages prior to the commencement of the work. A copy of each insurance policy, issued by a company currently licensed in the State of Oregon, and certified as a true copy by an authorized representative of the issuing company or at the discretion of the City, in lieu thereof, a certificate in a form satisfactory to City certifying to the issuance of such insurance shall be furnished to City. Unless specifically set forth on Exhibit A, expenses relating to the cost of insurance shall not be the basis for additional reimbursement to Consultant.
- I.2.2 The City agrees that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property.
- I.2.3 In the performance of its professional services, the Consultant shall use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession practicing in the Portland Metropolitan Area. The Consultant will reperform any services not meeting this standard without additional compensation. Consultant's reperformance of any services, even if done at City's request, shall not be considered as a limitation or waiver by City of any other remedies or claims it may have arising out of consultant's failure to perform in accordance with the applicable standard of care or this Agreement.
- I.2.4 Consultant shall furnish the City a certificate evidencing the date, amount and type of insurance that has been procured pursuant to this Agreement. All policies shall be written on an "occurrence basis," except for Consultant's Professional Liability Insurance which may be written on a "claims made" basis, provided it shall endeavor to be maintained in full force for not less than four (4) years following Consultant's performance under this Agreement. All policies shall provide for not less than 30 days' written notice to the City before they may be revised, non-renewed, or

canceled. The Consultant shall endeavor to provide for not less than 30 days' written notice to the City before the policy coverage may be reduced. Excepting professional liability and worker's compensation coverage, all policies shall provide an endorsement naming the City, its officers, employees and agents as additional insureds. In the event the policy lapses during performance, the City may: treat said lapse as a breach; terminate this Agreement and seek damages; withhold progress payments without impairing obligations of Consultant to proceed with work; pay an insurance carrier (either Consultants' or a substitute) the premium amount and withhold that amount from payments; and, use any other remedy provided by this Agreement or by law.

- 1.2.5 Insurance Requirements. The Consultant, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017 which requires them to provide workers' compensation coverage for all their subject workers. The Consultant will maintain throughout this Agreement the following insurance:
- 1.2.5.1 Workers' compensation and employers liability insurance as required by the State where the work is performed.
 - 1.2.5.2 Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from the use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with \$500,000 combined single limits.
 - 1.2.5.3 Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of the Consultant or of any of its employees, agents or subcontractors, with \$1,000,000 per occurrence and in the aggregate.
 - 1.2.5.4 Professional liability insurance of \$500,000 per occurrence and in the aggregate, including contractual liability coverage. If Consultant proposes using subcontractors, in addition to any other requirements of this Agreement, City may require subcontractors to provide Professional Liability Insurance, provided the amount and form of coverage complies with the requirements of paragraphs 1.2.1, 1.2.2, 1.2.3, 1.2.4 and 1.2.5.4.
 - 1.2.5.5 City will be named as an additional insured with respect to Consultant's liabilities hereunder in insurance coverages identified in items 1.2.5.2 and 1.2.5.3.
- 1.2.6 The coverage provided by these policies shall be primary and any other insurance carried by City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. In the event a dispute arises between City and Consultant for which Consultant has obtained insurance, the maximum amount which may be withheld by City for all such claims shall be no more than the amount of the applicable insurance deductible.

J. Early Termination

- J.1 This Agreement may be terminated prior to the expiration of the agreed upon terms:
- J.1.1 By mutual written consent of the parties;
 - J.1.2 By City for any reason within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person, or at such later date as may be established by the City; and
 - J.1.3 By Consultant, effective upon seven days prior written notice in the event of substantial failure by the City to perform in accordance with the terms through no fault of the Consultant.
- J.2 If City terminates the Agreement in whole or in part due to default or failure of Consultant to perform services in accordance with this Agreement, City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, Consultant shall be liable for all costs and damages incurred by City in procuring such similar service, and the Contract shall be in full force to the extent not terminated.
- J.3 If City terminates the Agreement for its own convenience, payment of Consultant shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Consultant against City under this Agreement.
- J.4 Termination under any provision of this paragraph shall not affect any right, obligation or liability of Consultant or City which accrued prior to such termination. Consultant shall surrender to City items of work or portions thereof, referred to in Section N for which Consultant has received payment, or City has made payment. City retains the right to elect whether or not to proceed with actual construction of the project.

K. Suspension of Work

City may suspend, delay or interrupt all or any part of the work for such time as the City deems appropriate for its own convenience by giving written notice thereof to Consultant. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within the Consultant's control. City shall not be responsible for work performed by any subcontractors after notice of suspension is given by City to Consultant.

L. Subconsultants and Assignments

- L.1 Consultant shall not enter into any subcontracts for any of the work scheduled under this contract without obtaining prior written approval from the Project manager. The Consultant shall ensure that in all subcontracts entered into by the Consultant pursuant to this contract, the City is named as an express third party beneficiary of such subcontracts with full rights as such. Consultant acknowledges such services are provided to City pursuant to a subcontract(s) between Consultant and subcontractor(s). City incurs no liability to third persons for payment of any compensation provided herein to Consultant. Any attempted assignment of this contract without the written consent of City shall be void.

Except as otherwise specifically agreed, all costs for services performed by others on behalf of Consultant shall not be subject to additional reimbursement by City.

- L.2 City shall have the right to let other agreements be coordinated with this Agreement. Consultant shall cooperate with other firms, engineers or subconsultants on the project and the City so that all portions of the project may be completed in the least possible time within normal working hours. Consultant shall furnish other engineers and subconsultants and affected public utilities, whose designs are fitted into Consultant's design, detail drawings giving full information so that conflicts can be avoided.

M. Access to Records

The City, Secretary of State's Office of the State of Oregon, the Federal Government and the duly authorized representatives of any of the above, shall have access to the books, documents, papers, records and receipts of the Consultant which are directly pertinent to this agreement for the purpose of making audit, examination, excerpts and transcripts. The City, Secretary of State's Office of the State of Oregon, the federal Government and authorized representatives shall have the authority to inspect, audit and copy from time to time, any records of the Consultant regarding billings or work under this agreement for a period of four years after the completion or termination of this contract.

N. Work is Property of City

- N.1 Originals or Certified copies of the original work forms, including but not limited to documents, drawings, tracings, surveying records, mylars, papers, diaries, inspection reports and photographs, performed or produced by Consultant under this Agreement shall be the exclusive property of City and shall be delivered to City prior to completion or termination of this contract and prior to final payment. Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to City upon request without additional compensation. Upon City's approval and provided City is identified in connection therewith Consultant may include Consultant's work in its promotional materials.
- N.2 Consultant shall not be held liable for any damage, loss, increased expenses or otherwise caused by or attributed to the reuse, by City or their designees, of all work performed by Consultant pursuant to this contract without the express written permission of the Consultant.

O. Law of Oregon

The Agreement shall be governed by the laws of the State of Oregon. The Agreement provisions required by ORS Chapter 279 to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein. Consultant shall adhere to all applicable federal and state laws, including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers' compensation, and minimum and prevailing wage requirements. Any certificates, licenses or permits which Consultant is required by law to obtain or maintain in order to perform work described on Exhibit A, shall be obtained and maintained throughout the term of this Agreement.

P. Adherence to Law

Consultant shall comply with all federal, state and local laws and ordinances, rules and regulations applicable to the work under this contract,. Consultant agrees that the public

contract law provisions contained in ORS chapter 279 shall apply to and govern the performance of this contract. Consultant shall certify compliance with ORS 670.600. Further, Consultant agrees to comply with applicable provisions of and amendments to the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973 and with all applicable requirements of federal and state and rehabilitation statutes, rules and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990, ORS 659.425, and all regulations and administrative rules established pursuant to those laws. Further, all certificates, licenses or permits, which the consultant is required by law to obtain or maintain in order to perform work described in Exhibit A, shall be obtained and maintained throughout the term of this agreement.

Q. Modification

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both parties. A modification is a written document, contemporaneously executed by City and Consultant, which increases or decreases the cost to City over the agreed sum or changes or modifies the scope of service or time of performance. No modification shall be binding unless executed in writing by Consultant and City. In the event that Consultant receives any communication of whatsoever nature from City, which communication Consultant contends to give rise to any modification of this Agreement, Consultant shall, within thirty (30) days after receipt, make a written request for modification to City's Project Manager. Consultant's failure to submit such written request for modification in the manner outlined herein may be the basis for refusal by the City to treat said communication as a basis for modification. In connection with any modification to the contract affecting any change in price, Consultant shall submit a complete breakdown of labor, material, equipment and other costs. If Consultant incurs additional costs or devotes additional time on project tasks which were reasonably expected as part of the original agreement or any mutually approved modifications, then City shall be responsible for payment of only those costs for which it has agreed to pay.

R. Other Conditions

R.1 Except as otherwise provided in paragraphs R.1.1, R.1.2, and R.1.3 Consultant represents and agrees that the contract specifications and plans, if any, prepared by the Consultant will be adequate and sufficient to accomplish the purposes of the project; and further, that any review or approval by the owner of the plans and specifications shall not be deemed to diminish the adequacy of Consultant's work.

R.1.1 Subsurface Investigations. In soils, foundation, ground water, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of the Consultant.

R.1.2 Opinions of Cost, Financial Considerations, and Schedules. In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Project, Consultant has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially

affect the ultimate Project cost or schedule. Therefore, Consultant makes no warranty that Owner's actual Project costs, financial aspects, economic feasibility, or schedules will not vary from Engineer's opinions, analyses, projections, or estimates.

R.1.3 Record Drawings. Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the Project was finally constructed. Consultant is responsible for any errors or omissions about which the Consultant knew or should have known in the information from those employees or firms employed by the Consultant under the terms of the contract as stated therein that is incorporated into the record drawings.

R.2 Notwithstanding any acceptance or payments, City shall not be precluded or stopped from recovering from Consultant, or its insurer or surety, such damages as may be sustained by reason of Consultant's failure to comply with the terms of this Agreement. A waiver by City of any breach by Consultant shall not be deemed to be a waiver of any subsequent breach by Consultant.

S. Assignments of Products Rights

The Consultant hereby assigns to the City all rights, title and interest, including but not limited to copyright rights, all notes, designs, drawings, specifications, technical data reports, computer programs and documentation, and other materials resulting from the Consultant's work under this contract.

T. Integration

This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Consultant, by the signature below of its authorized representative, hereby acknowledges that he/she has read this agreement, understands it and agrees to be bound by its terms and conditions.

U. Miscellaneous / General

Consultant binds itself, its partners, officers, successors, assigns and legal representatives to the City under the terms and conditions of this agreement as described herein.

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

IN WITNESS WHEREOF, the parties by their signatures below enter into this Agreement this _____ day of _____, 19____

CONSULTANT:

David Evans and Associates, Inc.

By _____
Typed or
Printed Name: _____

Title: _____

Mailing
Address: _____
2828 SW Corbett Avenue
Portland, OR 97201-4830

Employer ID. No. _____

CITY OF WILSONVILLE:

By _____
Michael A. Stone
City Engineer

Attest:

Sandy King
City Recorder

Mailing
Address: _____
30000 SW Town Center Loop East
Wilsonville, OR 97070

Approved as to form:

Michael E. Kohlhoff
City Attorney



EXHIBIT "A"

Scope of Services

SCOPE OF PROJECT

The Canyon Creek Road North Local Improvement District (LID) involves construction of Canyon Creek Road North as a new commercial/industrial street from Elligsen Road to Boeckman Road for approximately 6700 feet. The new street will have curb to curb width of 48 feet and right-of-way width of 62 feet. The street section will have two travel lanes, one in each direction, a median lane, bike lanes, sidewalks, and planting strips. The project will also include the construction of approximately 9,200 feet of sanitary sewers, 6,800 feet of storm sewers and 2,600 feet of water line. A traffic signal will be constructed at the intersection of Elligsen Road and Canyon Creek Road North. Street lights will also be included.

Improvements to Elligsen Road at Canyon Creek Road North will also be constructed to improve sight distance. These improvements will include the lowering and replacement of an existing 14-inch water supply main.

SPECIFIC SCOPE OF SERVICES

Provide construction surveying and construction engineering services for this project based on the scope of services described herein.

Consultant Responsibilities:

- Task 1.0 Management and Administration
- Task 2.0 Preconstruction Services
- Task 3.0 Construction Engineering
- Task 4.0 Additions

CONSULTANT RESPONSIBILITIES:

Task 1.0 Management And Administration

1.1 Project Management

- 1.1.1. Provide the management, coordination, and direction to the project team and subconsultants.

- 1.1.2 Prepare and submit monthly progress reports.
- 1.1.3 Schedule and coordinate regular project team meetings.
- 1.1.4 Prepare final cost analysis for System Development Charges (SDC's) breakdown.
- 1.1.5 Prepare calculations of final LID costs and make determination of assessment spread.

Task 2.0 Preconstruction Services

2.1 Staking Notes and Details

- 2.1.1 Prepare grade sheets giving finish grade and distance left and right of centerline on 50 foot stations including PC's, PRC's, PT's and angle points. Odd stations for changes in typical or structural sections, center of drainage structures, and beginning/end of tapers will also be designated on the sheets. Information will be given at each break or grade change shown in the typical sections. This will include centerline, crown, front of gutter, top of curb, front and back of sidewalk, edge of pavement, guardrail, bottom of ditch, approximate catch, right-of-way, and construction easement. Column headings on the grade sheet will be matched to typical sections.
- 2.1.2 Provide coordinate (X, Y, Z) files compatible with WildSoft with worksheets (point plots) to relate the point numbers to the plans. The points to be coordinated shall include centerline stations, PC's, and PT's, radius points; PC's, PT's and 1/4 deltas of curbs; center of drainage structures; center of wheelchair ramps; angle points in special concrete flat work; traffic control devices(junction boxes, traffic loop). Angles or changes in right-of-way and easements will also be shown.
- 2.1.3 Prepare 1"=20' finish grade intersection details for intersections to be constructed or reconstructed. Design contours (.2' contour interval) will be calculated along with a spot elevation finish grade grid at 10-foot spacing. Coordinates will be calculated for each grid point to be used by the surveyors in staking the intersection.

Task 3.0 Construction Engineering

3.1 Construction Engineering Support

- 3.1.1 Provide construction engineering support to answer questions and clarify the plans. Be readily available and prepared to make changes and resolve problems related to change-in-conditions



and/or unforeseen utility conflicts. Provide support in resolving claims by the contractor that arise from construction improvements.

- 3.1.2 Review and take appropriate action on all shop drawings and other submittals submitted by the contractor.

3.2 Construction Management

- 3.2.1 Provide one part time construction inspector to assist the City of Wilsonville's full time construction inspector.

- 3.2.2 Provide construction project management.

- a. Coordinate all construction activities with the construction contractor, the City, utility companies, property owners, and other affected parties.
- b. Monitor construction expenditures and project costs to evaluate compliance with the project costs to evaluate compliance with project budgets.
- c. Review and approve contractor's request for payment.
- d. Review Contractor's request for Change Orders. Prepare change orders and submit to the City for approval.
- e. Evaluate claims submitted by the contractor and provide recommendations to the City on claim resolution.
- f. Review BOLI documentation.

- 3.2.3 Assist the City in reviewing material testing results and monitor the contractor's adherence to the project requirements.

3.3 Construction Surveying

- 3.3.1 DEA will furnish the following one-time construction surveying services:

- a. Establish control stakes:
 - benchmarks
 - centerline
 - right-of-way;
- b. Slope stakes at 50-foot intervals on both sides of the road;
- c. Curb offset stakes at 25-foot intervals and at the horizontal curve points;

- d. Roadway grade hubs or marks at 50-foot intervals:
 - top of subgrade
 - top of aggregate base
 - top of finish elevations (including intersections on a 10-foot grid);
- e. Structure reference stakes:
 - manhole and catch basin offset stakes
 - wall offset stakes;
- f. Drainage reference stakes;
- g. Horizontal reference stakes for underground utilities;
- h. Reference stakes to finish elevations for:
 - utility manholes
 - vaults and risers
 - monument boxes
 - light poles
 - traffic signals.
 - utility installations
- i. Provide earthwork calculations.

Copies of field notes and daily reports will be furnished to the City.

3.4 Post Construction Survey

Provide post construction survey services including:

- 3.4.1 File a Post Construction Survey with City and County showing right-of-way document numbers.
- 3.4.2 Replace or reference monuments destroyed as required by ORS 209.150 (1) and (2).
- 3.4.3 Monument design centerline and right-of-way at curve points, angle points, intersections, and every 500 feet on tangent and other points required by City and/or County to achieve visibility between monuments.



3.4.4 Provide a copy of all survey notes taken by DEA. This includes a copy of any data collector information on disks compatible with City system.

3.5 As-Built Drawings

3.5.1 Prepare final "As-Built" drawings on mylar for City records. As-Built information will be based on the City inspector's redlines and on records maintained by the contractor.

3.6 Post Construction Monitoring

Monitoring of the wetland mitigation effort will follow the requirements specified in Oregon's Freshwater Compensatory Mitigation Rules for non-minor projects. Non-minor projects are those with wetland impacts exceeding 0.5 acres. In this case, the requirements include a post construction report, to be submitted no later than 60 days after completion of grading, that documents "as built" conditions such as grading and discussing any variation from the approved plan.

Annual reports will be prepared that summarize the results of monitoring through the year. These reports will include data gathered on plant and animal species present, measurement of tree and shrub growth, plant survival and mortality, hydrologic conditions and measurements, soil characterization, and site photographs.

Monitoring events will be conducted for five years unless otherwise required by the DSL and ACOE. These events will occur quarterly the first year, twice the second year, and annually thereafter. Therefore, a total of nine monitoring events will be conducted, seven of which will be full data gathering events, and two of which, during the first year, will consist of brief site visits to assess conditions in the sensitive early stages of the wetland mitigation. All parameters will be measured and the site photographed in the summer of each monitoring year, within one month of the same date each year and in the winter of the first and second years. Full data gathering will take place once per year thereafter.

Monitoring reports will be submitted to the DSL and ACOE after the City reviews and approve the report. A total of six reports will be prepared, one post-construction report, and five annual monitoring year reports. Also, a brief summary memo will be prepared for the City after each episode.

This scope does not include additional monitoring if required by the DSL or ACOE. It also does not include implementation of contingency measures that may be required in the event of wetland mitigation failure.

3.7 Arboricultural Services

3.7.1 Provide arboricultural services during construction to monitor Contractor's adherence to tree protection requirements and ensure careful workmanship near trees designated to be saved.



- 3.7.2 Prior to construction, certain trees were identified by the Project Arborist as requiring special treatment. Pruning, stabilization by cabling or other mechanical means, fertilization, or other therapeutic measures will be accomplished to ensure the health of these trees during the construction period, as well as after construction is complete. Arboricultural services will include this work and will include monitoring the stress and health of trees saved during construction for a period of two years.

Recommendations for remedial services, such as fertilization, treatment for disease, or mechanical correction will be made and proposals submitted for such services if survival of trees are in question during the monitoring period. These additional services would be provided directly by the arboricultural consultant.

- 3.7.3 Recommendations for White Oak mitigation measures, as required by City of Wilsonville resolution, will be made during the construction period. Recommended mitigation measures may include transplanting of trees, protection and care of trees near the construction, and remedial care of trees outside the construction zone but on adjacent properties. Other mitigation measures may also be identified. The Project Arborist will implement specific mitigation measures upon City approval.

Task 4.0 Additions

Perform additional services which are not covered under the above tasks as directed by the City's Project Coordinator.

PROJECT SCHEDULE

It is anticipated that the construction contract will be awarded on June 17, 1996 and that construction will commence about July 1, 1996. It is estimated that substantial construction will be completed in November, 1996. Project fees are based on the above schedule. Should the schedule change, the project fees will be adjusted as mutually agreed upon by the City and DEA.



CITY'S RESPONSIBILITIES

The City Shall:

- A. Coordinate the relationship with other jurisdictions involved in the project, with adjacent property owners and with the general public
- B. Provide one full time construction inspector.



EXHIBIT "B"

Fees And Payments

FEES AND PAYMENTS

DEA proposes to perform the Services outlined in Exhibit "A" on a time and materials basis not to exceed \$259,000 in accordance with the contract provisions and rate schedule set forth herein. The following is a breakdown of the estimated fees.

Task 1.0	Management and Administration	\$ 24,000
Task 2.0	Preconstruction Services	\$ 8,000
Task 3.0	Construction Engineering	\$ 230,000
Task 4.0	Additions	<u> \$ 0</u>
	Total Not to Exceed Fee Estimate	\$ 259,000



PHASE 1 HOURLY RATE SCHEDULE

Hourly rates for personnel assigned to this project will be in accordance with this rate schedule. Hourly rates subject to increase after December 31, 1996.

<u>Description</u>	<u>Rate per Hour</u>
Principal-in-Charge	\$113.00
Project Manager	\$81.00
Project Engineer	\$70.00
Senior Traffic Engineer	\$72.00
Design Engineer	\$61.00
Hydraulic Engineer	\$72.00
Natural Resources Manager	\$81.00
Wetland Ecologist	\$53.00
Wetland Technician	\$42.00
Landscape Architect	\$55.00
Right-of-Way Specialist	\$81.00
Project Surveyor	\$58.00
Survey Technician	\$43.00
2-Man Survey Crew	\$98.00
3-Man Survey Crew	\$134.00
CADD Technician	\$45.00
Clerical	\$35.00
Subconsultant	Cost + 10%