

THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE

URA RESOLUTION NO. 88

A RESOLUTION OF THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE ACTING IN ITS CAPACITY AS ITS LOCAL CONTRACT REVIEW BOARD EXEMPTING THE AGENCY FROM COMPETITIVE BIDDING REQUIREMENTS OF ORS 279.005 AND THE WILSONVILLE CODE AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH MACKAY AND SPOSITO, INC., TO PROVIDE PROFESSIONAL ENGINEERING SERVICES TO ASSIST IN DEVELOPING PRELIMINARY PLANS OUTLINING POTENTIAL URBAN RENEWAL PROJECTS FOR THE VILLEBOIS AREA.

WHEREAS, on June 17, 2002, the Urban Renewal Agency Board adopted a budget for the Agency that included \$400,000 for planning costs of new districts; and

WHEREAS, the Executive Director seeks the service of an engineering firm to provide professional services in developing project descriptions and cost estimates for a potential new district; and

WHEREAS, the Executive Director proposes to utilize the experience and expertise of Mackay and Sposito, Inc., the firm which developed preliminary project descriptions and cost estimates for the area formerly known as the Dammasch Area Transportation Efficient Land Use Plan and now known as Villebois; and

WHEREAS, on the 18th day of October 1999 the City of Wilsonville adopted Ordinance No. 511 amending WC2.310 Contract Review Board definitions by adopting State findings, policies and methods of fostering competition and definitions consistent therewith, amending WC2.314 to provide for competitive bids or proposals, providing for contracting officers and the creation of procedures for the screening and selection of professional services; and

WHEREAS, Finding (3) paragraph (10), subparagraph (b) states: "City Council shall adopt by resolution and the contracting officer shall follow the Oregon Attorney General's Public Contracting Rules (Division 35, Consultant Selection: Architectural and Engineering Personal Services Contracting), for screening and selection of persons to perform architectural and engineering personal service contracts for public improvements projects. Provided,

however, any provision in WC2.310-2.314 for exemptions will also apply and take precedent over the Division 35 Model Rules as the Board or Contracting Officer may determine.”; and

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

WHEREAS, on July 15, 2002, the Urban Renewal Agency Board adopted URA Resolution No. 86, appointing itself as the Local Contract Review Board for the Urban Renewal Agency, and relative to contract concerns for the agency to have all powers granted to the state Contract Review Board and to follow City contract rules and procedures; and

WHEREAS, Section 2.314(1) states that all {certain exemptions are granted} contracts shall be based upon competitive bids or proposals...“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, 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 that the Board may deem appropriate”; and

WHEREAS, Mackay and Sposito, Inc., has extensive and valuable information which could be utilized in completion of the referenced project, thereby reducing the overall project costs; and

WHEREAS, in accordance with paragraph 3 (14)(a) of Ordinance No. 511 this is follow on work where a change in consultants would clearly result in increased costs or increased time and as such is an exception to the competitive selection process; and

WHEREAS, staff has determined that the fees for the services as proposed by Mackay and Sposito, Inc., are fair and reasonable, reflecting the extensive and valuable information which will not have to be reconstructed or duplicated and prompt execution of the professional services agreement will allow the project to proceed in a timely manner; and

WHEREAS, the estimated fees for the professional services are for time, and materials at not to exceed \$175,000; and

WHEREAS, the professional engineering services included in this agreement are for an area outside of the present Urban Renewal District; and

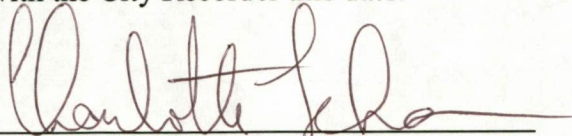
WHEREAS, the powers of urban renewal agencies in general are enumerated in ORS 457.180 and are as follows in part: “**457.180 Powers of urban renewal agencies in general...**(4) Make preliminary plans outlining urban renewal activities for neighborhoods to embrace two or more urban renewal areas. (5) Conduct preliminary surveys to determine if the undertaking and carrying out of an urban renewal project is feasible”; and

WHEREAS, the scope of work included in this professional services agreement is essential to be able to provide the preliminary plans and preliminary surveys as enumerated above.

NOW, THEREFORE, THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

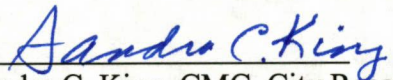
1. The Urban Renewal Agency Board acting as the Local Contract Review Board does hereby exempt the award of a contract for engineering professional services from competitive bidding and further concludes this award will not diminish competition and will result in substantial cost savings.
2. The Urban Renewal Agency Board acting as the Local Contract Review Board does hereby approve and authorize the Executive Director to sign a professional services agreement between the City of Wilsonville and Mackay and Sposito, Inc., a copy of which is marked Exhibit A, attached hereto and incorporated herein to provide the engineer professional services recited within for the referenced project.
3. Authorize the expenditures for this contract not to exceed the following amounts:
\$400,000 Account: 900-42510-2223
4. This resolution is effective upon adoption.

ADOPTED by the Urban Renewal Agency of the City of Wilsonville at a regular meeting thereof this 5th day of August, 2002, and filed with the City Recorder this date.



CHARLOTTE LEHAN, CHAIR

ATTEST:



Sandra C. King, CMC, City Recorder

SUMMARY of votes:

Charlotte Lehan, Chair	Yes
John Helser, Board Member	Yes
Alan Kirk, Board Member	Excused
Bruce Barton, Board Member	Yes
Benny Holt, Board Member	Yes

PROFESSIONAL SERVICES AGREEMENT

CONSULTING SERVICES FOR ENGINEERING

BETWEEN

MACKAY & SPOSITO, INC.

AND

THE CITY OF WILSONVILLE URBAN RENEWAL AGENCY

This AGREEMENT is made and entered into by and between MacKay & Sposito, Inc. ('CONSULTANT' herein) and the City of Wilsonville, a political subdivision of the State of Oregon ("CITY" herein).

ARTICLE 1. PURPOSE OF AGREEMENT

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

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 other communication between the parties relating to the subject 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. NONDISCRIMINATION

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 4. DUTIES AND RESPONSIBILITIES OF THE CONSULTANT

The CONSULTANT shall perform services as described in Attachment "A" attached hereto and by this reference made a part hereof. Consultant shall provide reports and invoices to the City's designated Project Manager, Rick Gustafson at the following location:

Shiels Oblatz Johnsen
115 NW First Avenue, Suite 200
Portland, OR 97212
Attn: Kim Knox

Fax: 503.299.6769
Email: knox@sojpdx.com

ARTICLE 5. STANDARD OF SERVICES AND WARRANTY

The CONSULTANT agrees to perform his/her services with that standard of care, skill, and diligence normally provided by a professional individual in the performance of similar services. The CONSULTANT warrants that the recommendations, guidance, and performance of any person assigned under this AGREEMENT shall be in accordance with the professional standards and requirements of this AGREEMENT.

ARTICLE 6. INDEPENDENT AGENT

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 the CONSULTANT'S acts or omissions performed under this or other agreements to which the CONSULTANT is a party.

ARTICLE 7. INDEMNIFICATION

The CONSULTANT shall save harmless and indemnify the CITY, its City Councilors, 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 or of failure to perform the obligations of the AGREEMENT.

ARTICLE 8. SUBCONTRACTING

No portion of the AGREEMENT may be subcontracted to any other individual, firm, or entity without the express and prior approval of the CITY.

ARTICLE 9. NON ASSIGNMENT

No portion of nor any interest in this AGREEMENT may be assigned to a third party without the express and prior approval of the CITY.

ARTICLE 10. PUBLICITY

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

ARTICLE 11. FEES AND PAYMENT

The CITY agrees to pay the CONSULTANT for services performed pursuant to this agreement according to the terms and amounts specified in Attachment "A" 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 the CONSULTANT'S duties hereunder.

ARTICLE 12. CHANGES

The fee specified herein shall include all services specified herein. Any fee increases will require written approval by the CITY.

ARTICLE 13. OWNERSHIP OF WORK PRODUCT

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

ARTICLE 14. TERMINATION OF AGREEMENT

This AGREEMENT may be terminated under the following condition:

By written mutual agreement of both parties. Termination under this provision may be immediate.

ARTICLE 15. SURVIVAL

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 URBAN RENEWAL AGENCY:

Signature

Signature

Printed Name

Arlene Loble

Title

Executive Director

ATTACHMENT A
MacKay & Sposito, Inc. Scope of Work

Scope Elements

The following describes a scope of work for MacKay & Sposito, Inc ("Consultant") to provide engineering assistance to the City as part of the Villebois Plan Area effort. The work will be organized into two general categories:

Development: Evaluation of the off-site infrastructure costs to support work on the Finance Plan. Tasks for this work item will be authorized by Shiels Obletz Johnsen.

Regulatory: Evaluation of the on-site infrastructure needs to support the Villebois design team. Tasks for this work item will be authorized by the City of Wilsonville with the Consultant providing written documentation of these tasks to Shiels Obletz Johnsen. This work will be as requested by the City and has not been included in the attached scope tasks.

Fees and Payment

MacKay & Sposito, Inc. will be reimbursed on a time and materials basis not to exceed \$175,000 for the tasks and rates listed on this attachment. Reimbursable expenses, which shall be the reasonable costs directly incurred for fulfilling the terms of this Agreement including, but not limited to travel, reproduction, telephone and supplies.

All requests for payment shall be forwarded to Rick Gustafson, the City's designated Project Manager at:

Shiels Obletz Johnsen
115 NW First Avenue, Suite 200
Portland, OR 97209
ATTN: Kim Knox

Contract Term

The Consultant shall have no obligation to provide services after September 30, 2002. At that point, the City will conduct an assessment of the project needs to determine future phases of work and authorize additional work as appropriate. In February of 2003, the City will again review the Consultant's scope of work prior to authorizing work to continue.