

RESOLUTION NO. 975

A RESOLUTION AUTHORIZING CITY OF WILSONVILLE TRANSIT DIRECTOR TO EXECUTE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT AND CITY OF WILSONVILLE JOINT OPERATING AGREEMENT.

WHEREAS, the City and Tri-Met find it mutually advantageous to establish a joint operating agreement to define:

- a. The responsibilities of the City and Tri-Met with regards to planning, financing, and delivery of public transit services within a defined area; and
- b. A process for coordinating the planning and provision of transit services; and

WHEREAS, pursuant to the authority granted to Tri-Met under ORS Chapter 267, its Board of Directors has adopted Ordinance 167 thereby authorizing the withdrawal of the Wilsonville area from the Tri-Met District; and

WHEREAS, Tri-Met and the City have authority under ORS Chapter 190 to enter into this Agreement.

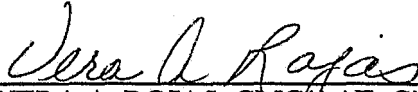
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The Transit Director of the City of Wilsonville, Richard Randise, is hereby authorized to execute on behalf of the City of Wilsonville revised Contract No. 92-0505I, entitled "Tri-County Metropolitan Transportation District City of Wilsonville Joint Operating Agreement", a copy of which is marked Exhibit A, attached hereto and incorporated by reference herein, upon the city attorney's approval as to form.

ADOPTED by City Council of the City of Wilsonville at a regular meeting thereof this 19th day of January, 1993 and filed with the Wilsonville City Recorder this same date.


GERALD A. KRUMMEL, Mayor

ATTEST:


VERA A. ROJAS, CMC/AAE, City Recorder

SUMMARY of Votes:

Mayor Krummel AYE
Councilor Carter AYE
Councilor Hawkins AYE
Councilor Lehan AYE
Councilor Van Eck AYE



City of
WILSONVILLE
in OREGON

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

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: RICHARD RANDISE
Transit Director

DATE: January 11, 1993

SUBJECT: ANNUAL TRI-MET CONTRACT

The City of Wilsonville is currently working under an annual contractual agreement with Tri-Met to provide regional access, peak-hour service. The attached contract represents a continuation of the current contract. The rate of payment will be increased from the current \$62.00 per hour to \$65.55 per hour. This cost increase represents a pass through of increased cost experienced by Tri-Met due to recent contract negotiations, increases in insurance, fuel and other overhead expenses.

RECOMMENDATION:

Adopt Resolution No. CB-R-657-93, thereby authorizing the Transit Director to execute revised Contract No. 92-0505I as submitted.

rr:dp

January 19, 1993

To: Arlene Loble,
City Manager

From: Richard Randise, *RC 1-19-93*
Transit Director

Subject: Supplement To Tri-Met Contract No. 92-0505I - City Council Hearing of
January 19, 1993

The subject Tri-Met contract contains some minor revisions from prior contracts for service on Tri-Met line **local 96** (Wilsonville to Portland via Tualatin).

DISCUSSION

The contract period includes July 1, 1992 through June 30, 1993 with three (3) additional one (1) year renewal option periods. As to the minor revisions, staff had two concerns. The first was regarding assignment for performance of City's responsibilities under the contract. We requested that this condition be reciprocal. Tri-Met provided the city with a letter relieving this concern. The City's responsibilities are detailed in paragraph 3 of the contract. In summary, the City shall maintain the bus stops and shelters (located within the City limits where local 96 serves) including compliance with Americans with Disabilities Act, maintain the Park & Ride lot at City Hall and pursue another Park & Ride lot west of the I-5 corridor and to pay Tri-Met's monthly invoices within 30 days.

The second concern involved indemnification. The first draft of the contract required the city to indemnify Tri-Met for any negligence out of the City's non performance of the contract. This seemed unusual in view of the fact that the greatest exposure to liability in the performance of this contract rested in Tri-Met's operation of revenue service vehicles. Subsequently, Tri-Met added language indemnifying the city in the event of such liability occurrence.

FINANCING

The contract provides for three types of fees:

1. A monthly management fee of \$850.00.
2. An hourly fee of \$21.00 if the City requests any Special Planning Projects, i.e. bus stop signs, onboard surveys, schedule/routing analyses etc.
3. An hourly rate of \$65.55 for services provided.

Tri-Met's local 96 operates eight (8) hours per day, Mondays through Fridays except on certain holidays. For FY 1992-93, the service will operate 256 days.

The total cost for the contract period is expected to be \$144,446.00. However, costs associated with the month of June 1992 were not invoiced until the City's financial

records for FY 1991-92 were closed. Therefore, the invoice for June 1992 amounting to \$11,762 has been charged against this fiscal budget. Thus, the total amount for fee schedule items 1 & 3 is expected to be \$156,208.40.

The budget contains funds amounting to \$178,500. The remaining \$22,191.60 is available for Special Planning Projects and contingencies.

FY 1991-92

During this budget period, the total amount planned for items 1 & 3 of the fee schedule was \$136,680.00. This included the \$11,762.00 for June 1992 services paid in FY 1992-93. Other Tri-Met costs paid in 91-92 included \$10,353.77. Of the \$10,353.77, two planning projects for bus stop signs were completed totaling \$163.00. The balance, \$10,190.77, involved an invoice dated March 1990 which included costs for all three items contained in the fee schedule. No detail was provided under item 2 (Special Planning Projects). The delay in payment was due to discrepancies in Tri-Met's billing statement.

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Exhibit A

Tri-County Metropolitan Transportation
District City of Wilsonville

Contract No. 92-0505I
(revised)

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT
CITY OF WILSONVILLE
JOINT OPERATING AGREEMENT

THIS AGREEMENT is made between the TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON, a Mass Transit District of the State of Oregon ("Tri-Met), and the CITY OF WILSONVILLE, an incorporated municipality of the State of Oregon ("the City").

WHEREAS, the City and Tri-Met find it mutually advantageous to establish a joint operating agreement to define:

1. The responsibilities of the City and Tri-Met with regards to planning, financing, and delivery of public transit services within a defined area; and
2. A process for coordinating the planning and provision of transit services; and

WHEREAS, pursuant to the authority granted to Tri-Met under ORS Chapter 267, its Board of Directors has adopted Ordinance 167 thereby authorizing the withdrawal of the Wilsonville area from the Tri-Met District; and

WHEREAS, Tri-Met and the City have authority under ORS Chapter 190 to enter into this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE CITY AND TRI-MET AGREE AS FOLLOWS:

1. TERM

The term of this contract shall be from July 1, 1992 through June 30, 1993, unless terminated sooner under the provisions herein. Tri-Met shall have the option to extend this agreement for three additional one-year terms.

2. TRI-MET OBLIGATIONS

During the term of this agreement, Tri-Met shall have the following obligations:

- A. Extend bus route No. 96 to Barbur St. and Boones Ferry Road in Wilsonville. Tri-Met shall manage the schedule and it will be written to match, as close as possible, the week-day, peak hours schedules that were in effect in December, 1988.

- B. Provide the City with an itemized invoice for services which fully describes the costs associated with providing service to the City. A sample invoice is attached as Exhibit B and incorporated herein by this reference.

3. CITY OF WILSONVILLE OBLIGATIONS

During the term of this agreement, the City shall have the following obligations:

- A. Maintain and keep in repair bus stops and any shelters in the City along the service route provided under this agreement.
- B. Maintain the existing Park & Ride lot at City Hall and pursue opening an additional Park & Ride lot located in the vicinity of Boones Ferry and Wilsonville Roads.
- C. Cooperate with Tri-Met to assure that City bus stops and shelters comply with the Americans With Disabilities Act of 1990 and its applicable regulations. City shall assume all financial obligations thereof.
- D. Within 30 days after delivery of Tri-Met's invoice, pay Tri-Met for services provided to the City on a monthly basis according to the fee schedule attached as Exhibit A, which is incorporated into this agreement by this reference.

4. INTEGRATION AND MODIFICATION

This agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. This agreement may be modified only by a written agreement signed by authorized representatives of the parties.

5. INDEMNIFICATION

City shall indemnify, hold harmless, and defend Tri-Met and its representatives, officers, directors, and employees from any loss or claim made by third parties including legal fees and costs of defending actions or suits, resulting directly or indirectly from City's performance or nonperformance of this contract, where the loss or claim is attributable to the negligence or other fault of City, its employees, representatives, or subcontractors within the limits set forth under the Oregon Tort Claims Act. If the loss or

claim is caused by the joint or concurrent negligence or other fault of Tri-Met and City, the loss or claim shall be borne by each in proportion to the degree of negligence or other fault attributable to each.

Tri-Met shall indemnify, hold harmless, and defend City and its representatives, officers, directors, and employees from any loss or claim made by third parties including legal fees and costs of defending actions or suits, resulting directly or indirectly from Tri-Met's performance or nonperformance of this contract, where the loss or claim is attributable to the negligence or other fault of Tri-Met, its employees or representatives within the limits set forth under the Oregon Tort Claims Act. If the loss or claim is caused by the joint or concurrent negligence or other fault of Tri-Met and City, the loss or claim shall be borne by each in proportion to the degree of negligence or other fault attributable to each.

6. PUBLIC CONTRACT PROVISIONS

All provisions required in public contracts under ORS Chapter 279 are incorporated by reference and shall be deemed a part of this contract as if fully set forth.

7. ASSIGNMENT

City may not assign, delegate, or subcontract for performance of any of its responsibilities under this contract without Tri-Met's prior written consent.

8. TERMINATION IN PUBLIC INTEREST

Tri-Met or the City may terminate all or part of this contract upon determining that termination is in the public interest. Termination under this Paragraph shall be effective sixty (60) days after delivery of written notice of termination to either party. Upon termination under this paragraph, Tri-Met shall be entitled to payment in accordance with the terms of the contract for contract work completed before termination, and to payment for all reasonable contract close-out costs. Within thirty (30) days after termination pursuant to this paragraph, Tri-Met shall submit an itemized invoice for all unreimbursed contract work completed before termination and all contract close-out costs actually incurred by Tri-Met.

9. TERMINATION FOR DEFAULT

If City or Tri-Met fails to perform in the manner called for in this contract, or if City or Tri-Met fails to comply with any other provisions of the contract, the party-in-compliance may terminate this contract for default.

Termination shall be effected by serving a notice of termination on the non-complying party setting forth the manner in which the non-complying party is in default. Tri-Met shall be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If it is later determined by Tri-Met or the City that the non-complying party had an excusable reason for not performing, such as a strike, fire, flood, or other event that is not the fault of, or is beyond the control of, the non-complying party, either party may allow the non-complying party to continue work, or may treat the termination as a termination in public interest.

10. NONDISCRIMINATION

During the term of this contract, City shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, national origin or disability.

11. JURISDICTION

This contract shall be governed by the laws of the State of Oregon, and the parties agree to submit to the jurisdiction of the courts of the State of Oregon and to the venue of the Multnomah County Circuit Court.

12. COMPLIANCE WITH LAWS AND REGULATIONS

City shall adhere to all applicable Federal, state, and local laws, regulations, and policies, including, but not limited to, those related to workers' compensation, those of the Contract Work Hours and Safety Standards Act, and those relating to equal employment opportunity, nondiscrimination, and affirmative action, including, but not limited to, those regulations implementing Executive Order No. 11246 of the President of the United States and Section 402 of the Vietnam Readjustment Act of 1973 and the Americans With Disabilities Act of 1990. City shall adhere to all safety standards and regulations established by Tri-Met for work performed on its premises or under its auspices.

13. ANNEXATION

Nothing in this agreement shall be construed to limit or extend Tri-Met's statutory authority to establish new territorial boundaries.

14. NO WAIVER

Tri-Met or City's failure to object to any breach of this Agreement shall not constitute a waiver of that party's

right to object to any additional breach or to require specific performance of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Joint Operating Agreement by their authorized officials.

CITY OF WILSONVILLE

TRI-COUNTY METROPOLITAN
TRANSPORTATION DISTRICT OF OREGON

By: _____
(signature)

By: _____
(signature)

Name: _____

Name: Tom Walsh

Title: _____

Title: General Manager

Address: 30000 SW Town Center Loop E
Wilsonville, OR 97070

APPROVED AS TO FORM

Telephone: 682-1011

By: _____
Butch Pribbanow
Legal Department

APPROVED AS TO FORM

City of Wilsonville
City Attorney

EXHIBIT A

Fee Schedule

	<u>Description</u>	<u>Amount</u>
1.	Management Costs	\$850.00 per month
2.	Special Planning Projects	\$ 21.00 per hour
3.	Tri-Met Service	\$ 65.55 per hour

EXHIBIT B

TRI-MET MONTHLY REQUEST FOR REIMBURSEMENT

WILSONVILLE SERVICE: _____

Management cost: \$850.00

Special planning projects: _____ hrs. X \$21.00 _____

Tri-Met bus service: _____ hrs. X \$65.55 _____

TOTAL AMOUNT DUE: _____