

ORDINANCE NO. 505

AN ORDINANCE GRANTING AN EXCLUSIVE FRANCHISE TO WILSONVILLE CAB CO. INCORPORATED, AN OREGON CORPORATION, TO OPERATE A TAXICAB SERVICE IN THE CITY OF WILSONVILLE; FIXING TERMS, CONDITIONS, AND COMPENSATION OF SUCH FRANCHISE, AND REPEALING ORDINANCE NO. 494.

WHEREAS, the City of Wilsonville wishes to renew its franchise agreement with Wilsonville Cab Co. Incorporated, an Oregon corporation (hereinafter "Wilsonville Cab Co."), to provide for hire taxicab service within the city; and

WHEREAS, ORS 221.485 affirms that political subdivisions can regulate taxis and other vehicles for hire and provides an exemption for liability under federal antitrust laws; and

WHEREAS, ORS 221.495 authorizes cities to grant taxi franchises within their jurisdictions; and

WHEREAS, to ensure compliance with ADA (Americans with Disabilities Act), South Metro Area Rapid Transit (SMART)/City of Wilsonville wishes to continue utilizing Wilsonville Cab Co. as a backup to SMART's Dial-A-Ride service for ADA-eligible customers; and

WHEREAS, in 1997 the City of Wilsonville entered into a franchise agreement with Transportation Support Services, Inc. ("TSS"), the predecessor and current parent corporation of Wilsonville Cab Co., for one year as a demonstration project to determine the level of ADA demand, and that demand has been constant and is expected to increase; and

WHEREAS, in Ordinance No. 494, Wilsonville Cab Co. agreed to a flat rate of \$8.50 per ride within the Wilsonville service area for SMART ADA trips, and SMART's ADA trips will have priority over regular general public service when scheduled at least twenty-four hours in advance; and

WHEREAS, Wilsonville Cab Co. has provided increasing service to SMART Transit for backup ADA and Dial-A-Ride Service; and

WHEREAS, Wilsonville Cab Co. provides critical short ride taxi service that might not otherwise be provided at a fair rate and upon demand; and

WHEREAS, it is in the public interest to have dependable and reliable taxicab service operating within the city; and

WHEREAS, Wilsonville Cab Co. has met all the terms and conditions of Ordinance No. 494; and

WHEREAS, Wilsonville Cab Co. has expended substantial resources in providing services to SMART Transit and to the public in general; and

WHEREAS, individual citizens have reported that the service provided meets their needs, and is safe, courteous and reliable; and

WHEREAS, the city's need for such supplemental public service and private service has increased; and

WHEREAS, it is in the public interest and for the public benefit to ensure that safe and reliable taxicab service continue; and

WHEREAS, it is in the public interest to provide transportation for medical purposes as may be necessary or desired by individuals.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

The franchise granted in Ordinance No. 494 shall be continued in its entirety, save it shall be amended by changes and additions as shown in bold type:

Section 1. Rights Granted. Subject to the conditions and reservations contained hereinafter in this Ordinance, the City of Wilsonville (hereinafter referred to as the "City" or "grantor") grants to Wilsonville Cab Co., Incorporated ("Wilsonville Cab Co." or "grantee"), the right, privilege, license, and exclusive franchise to own, operate and maintain a taxicab service in the City of Wilsonville and engage in the business of transporting persons and personal property for hire by motor vehicle, and to establish rates and make and collect for such services.

Section 2. Duration. This franchise is granted for a period of one (1) year from and after the effective date of this Ordinance, up to five (5) years total duration commencing from January 1, 1998.

2.A. This franchise may be renewed annually on January 1 upon application by Wilsonville Cab Co. within sixty (60) days prior to expiration.

Section 3. Exclusive Franchise. This franchise is exclusive and shall be construed as a limitation on the City in granting rights, privileges, license and authority to other persons which are similar to those granted by this Ordinance for one year from date of adoption of this Ordinance. All passenger service companies that pick up customers in Wilsonville shall be subject to the exclusive provision of this section; provided, however, this exclusive franchise does not prohibit 1) regularly scheduled airport shuttle service, 2) limousine service that provides a chauffeur and a large model sedan such as Cadillac or Lincoln Towne Car, 3) the completion of a trip that originates outside the City and terminates in Wilsonville, or 4) a trip that originates outside the City limits and has an intermediate stop within the City before terminating outside the City, or 5) any taxicab service previously licensed and in existence at the time of the 1997 franchise agreement with TSS and to which TSS had no objection at the City Council's public hearing of Ordinance 477 (January 23, 1997).

3.A. Exception. Medical trips as may be assigned or contracted for by other agencies, districts, or medical companies, including but not limited to Department of Veterans Affairs, Disabled Veterans, Washington County Transportation Service, Medical Transportation Service, and Tri-met, are excepted from the requirements of this franchise.

Section 4. Continuous Service. Wilsonville Cab Co. shall maintain and operate a safe, reliable, on-time taxicab service for the transportation of persons and personal property in the City of Wilsonville during the terms of this franchise, but under no circumstances shall Wilsonville Cab Co. be liable for an interruption or failure to provide such service caused by an act of God, unavoidable accident or other circumstances beyond the control of TSS through no fault of its own.

Section 5. Safety Standards. The facilities and equipment of Wilsonville Cab Co. shall at all times be maintained and operated in a safe, substantial and workmanlike manner. Wilsonville Cab Co. will maintain and operate the vehicles in accordance with the maintenance and inspection schedule provided by the manufacturer. The operator will maintain a clean environment, neat appearance, and provide courteous customer service.

Section 6. Liability Insurance. Wilsonville Cab Co. shall obtain and maintain any required permits and liability insurance with limits of no less than \$200,000 for each person, \$500,000 for each occurrence and \$50,000 property damage.

Section 7. Service Standards. Wilsonville Cab Co. assures compliance with all applicable requirements established by the Americans with Disabilities Act of 1990, and FTA CFR 47: parts 37 and 38, and agrees to comply with any other state and federal requirements pertaining to taxicab service.

Wilsonville Cab Co. will also assure that a wheelchair-accessible vehicle is available for necessary SMART back-up ADA trips requiring a wheelchair lift.

Section 8. Compensation. As compensation for the franchise granted by this Ordinance, Wilsonville Cab Co. shall pay to the City the sum of One Hundred Dollars (\$100). The annual compensation for each year shall be paid upon billing by the City of Wilsonville.

Section 9. Indemnification. Wilsonville Cab Co. shall indemnify and save harmless the City and its officers, agents, and employees, from any and all loss, cost and expense arising from damage to property and/or injury to or death of persons due to any wrongful or negligent act or omission of Wilsonville Cab Co., its agents or employees, in exercising the rights, privileges, license and franchise hereby granted.

Section 10. Assignment of Franchise. This franchise is not assignable or transferable without the prior express written consent of the City.

Section 11. Termination of Franchise for Cause. Upon the willful failure of Wilsonville Cab Co. after thirty (30) days' notice and demand in writing to perform promptly and completely each and every term, condition or obligation imposed upon it under or pursuant to this Ordinance, the City may terminate this franchise, subject to grantees' right to a review of the reasonableness of such action.

- A. The City reserves the right to terminate this franchise and all of Wilsonville Cab Co.'s rights herein, if Wilsonville Cab Co.:
1. Violates any material term of the franchise, or
 2. Fails to continue operation of service within two (2) months after issuance of franchise, or
 3. Fails to pay the franchise fee to the City, or
 4. Is found guilty of any fraud or deceit, or
 5. Fails to obtain or maintain any permit required by state or federal law or otherwise fails to comply with all applicable state and federal laws and City ordinances adopted theretofore or hereafter during the term of this franchise.
- B. It may be a good faith defense to a violation of Section A above that the violation occurred through no fault of Wilsonville Cab Co. or occurred as a result of circumstances beyond Grantee's control. Wilsonville Cab Co. shall not, however, be excused by mere economic hardship, nor misfeasance or malfeasance of its directors, officers, or employees.

Section 12. Acceptance. Within thirty (30) days from the date this Ordinance takes effect, Wilsonville Cab Co. shall file with the City its written unconditional acceptance of this franchise and furnish a certificate of the insurance required by the provisions in Section 5. If TSS fails to complete these requirements, this Ordinance shall be null and void.

Section 13. Rates and Charges. Current rates and charges to be made by Wilsonville Cab Co. for the transportation of persons or personal property are as follows:

Charge: \$ 1.50 per mile
Minimum Charge: \$ 2.50
Additional Charge of \$ 1.00 for each person
SMART ADA back-up rides: Flat trip rate of \$8.50 per ride

Any changes or proposed changes by Wilsonville Cab Co. in its rates, charges or tariffs shall first be submitted to and approved by the Wilsonville City Council before such changes take effect.

Section 14. Validity of Ordinance. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other provision of this ordinance which can be given effect without reference to the invalid part or parts.

Section 15. Quarterly Report. Wilsonville Cab Co. will submit a quarterly report to the City of Wilsonville reporting on their compliance with standards set forth in Sections 4 through 7, above.

Section 16. Ordinance No. 494 is hereby repealed.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 7th day of December, 1998, and scheduled for a second reading at a regular meeting thereof on the 21st day of December, 1998, commencing at the hour of 7:00 P.M. at the Wilsonville City Hall Annex.

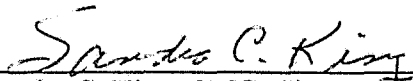


Sandra C. King, CMC, City Recorder

ENACTED by the City Council on December 21, 1998, by the following votes:

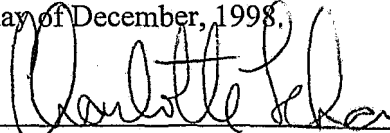
YES: -4-

NO: -1-



Sandra C. King, CMC, City Recorder

DATED and signed by the Mayor this 23 day of December, 1998.



CHARLOTTE LEHAN, MAYOR

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Luper	<u>No</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>