

**RESOLUTION NO. 1809**

**A RESOLUTION RATIFYING THE EXECUTION OF AN INTER-GOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WILSONVILLE AND THE SALEM AREA MASS TRANSIT DISTRICT RESPECTING TRANSIT SERVICE BETWEEN SALEM AND WILSONVILLE.**

WHEREAS, the City operates a public transit service know as SMART with service between locations within the City and the Courthouse Square Transit Mall in Salem, Oregon, owned and operated by Salem Area Mass Transit District (SAMTD); and,

WHEREAS, the City and SAMTD desire to coordinate their resources to provide coordinated mass transit service between the service areas of the City and SAMTD; and,

WHEREAS, SAMTD and the City are authorized to enter into intergovernmental agreement for mass transit services under ORS 267.200 (8) and ORS 190.010; and,

WHEREAS, the City Manager is authorized under W.C. 2.240 to enter into such intergovernmental agreements to provide for transit service inside and outside the City; and,

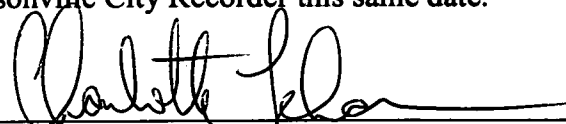
WHEREAS, pursuant to this authority, the City Manager and the SAMTD General Manager executed the intergovernmental agreement on January 3, 2003, a copy of which agreement is attached as Exhibit A; and,

WHEREAS, the City Manager now brings the agreement to the attention of the City Council, and it appearing to the Council that ratification of the agreement is in the public interest,


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

1. That the Intergovernmental Agreement executed on January 3, 2003, is hereby ratified.
2. That this resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 13<sup>th</sup> day of January, 2003, and filed with the Wilsonville City Recorder this same date.

  
\_\_\_\_\_  
CHARLOTTE LEHAN, MAYOR

ATTEST:



Starla Schur, Deputy City Recorder

SUMMARY of Votes:

Mayor Lehan	Yes
Councilor Helser	Yes
Councilor Kirk	Yes
Councilor Holt	Yes
Councilor Scott-Tabb	Yes

## INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is entered into this 3<sup>RD</sup> day of JANUARY, 2003 by and between the CITY OF WILSONVILLE, OREGON, a municipal corporation of the State of Oregon, hereinafter referred to as "City", and SALEM AREA MASS TRANSIT DISTRICT, a municipal corporation of the State of Oregon, hereinafter referred to as "District".

WHEREAS, the City of Wilsonville is an incorporated city and has the authority to operate a mass transit system within its boundaries; and

WHEREAS, Salem Area Mass Transit District (SAMTD) is a mass transit system organized pursuant to ORS 267.107 and having the powers enumerated in ORS 267.200 and

WHEREAS, the City operates a shuttle service known as SMART with service between locations within the City and the Courthouse Square Transit Mall owned and operated by SAMTD in Salem, Oregon; and

WHEREAS, the City and SAMTD desire to coordinate their resources to provide coordinated mass transit service between the Service Area of the City and the Service Area of SAMTD; and

WHEREAS, SAMTD is authorized to enter into intergovernmental agreements for mass transit services under ORS 267.200(8); and

WHEREAS, the City, through its Manager, is authorized to enter into intergovernmental agreements under ORS 190.010 and W.C. 2.240 to provide for transit service inside and outside the City.

NOW, THEREFORE, the parties agree as follows:

1. City agrees to permit SAMTD to operate an express shuttle service within the City limits. SAMTD intends to operate three trips into and out of the City. The express shuttle service will provide mass transit service from stops located within the City limits to Courthouse Square Mall in Salem, Oregon and from Courthouse Square Mall in Salem, Oregon to stops within the City limits.

2. Transit agrees to permit the City to operate an express shuttle service within the SAMTD service area. The City intends to operate five trips into and out of SAMTD boundaries. The express shuttle service will provide mass transit service from stops located within the City limits to Courthouse Square Mall in Salem, Oregon and from Courthouse Square Mall in Salem, Oregon to stops within the City limits.

3. Each party shall provide proof of insurance coverage as follows:

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 for each claim, incident or occurrence for bodily injury and property damage, including contractual liability coverage for the indemnity provided under this agreement. Each party's insurance shall provide that the other party and its officers and employees are Additional Insureds but only with respect to the activities arising under or relating to this Agreement.

Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles, as applicable.

Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the insurer to the parties.

Certificates of insurance. As evidence of the insurance coverages required by this agreement, each party shall furnish acceptable insurance certificates to the other party prior to the effective date of this agreement. The certificate will specify all of the parties who are Additional Insureds. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided. The insured under each policy shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

4. Funds for the cost of service provided by SAMTD are from jobs access/reverse commute funds from federal sources and from SAMTD general funds. Pursuant to ORS 267.200(8), SAMTD has determined that the proportion of the cost of benefits to the City of the service provided under this Agreement by SAMTD to the total cost of benefits from the service provided under this Agreement is equal to zero. Funds for the cost of service provided by the City are from general funds, unless the City informs SAMTD otherwise in writing.

5. SAMTD is the grantee recipient of JARC funding, and shall pass through JARC funds to cover the City's cost for one round trip added to the new service schedule. The time and schedule of the trip and terms of payment will be specified in a memorandum of understanding, mutually agreed upon between SAMTD and the City staffs, prior to beginning services. Match for the City's added trip will be provided by the City.

6. Term of agreement. This agreement is in effect from January 6, 200<sup>3</sup> through June 30, 2005. If pursuant to the Local Budget Law (ORS 294.305 - 294.565), the governing body of the SAMTD or of the City fails to adopt a budget specifically appropriating sufficient funds to provide the services contemplated under this Agreement and no such appropriation is legally made, either party may terminate this Agreement at the end of the then-current fiscal year and all obligations of the parties under this Agreement arising thereafter shall terminate. Nothing in this Agreement shall be deemed

in any way to obligate the SAMTD or the City beyond its current fiscal year.

7. Termination. Notwithstanding any other provision of this agreement to the contrary, this agreement may be terminated as follows:

7.1 The parties, by mutual written agreement, may terminate this agreement at any time.

7.2 Either party may terminate this agreement in the event of a breach of the agreement by the other party.

7.3 Either party may terminate this agreement at any time and for any reason, upon written notice given to the other party not less than thirty (30) days in advance of the termination date.

7.4 Either party may terminate this agreement immediately upon the other party's failure to have in force any insurance required by this agreement.

8. Limitation on Liability, Hold Harmless. It is not the intention of the parties to create an intergovernmental entity. The liabilities and obligations of the parties shall remain several, and shall not be joint, including any liability or obligation arising out of the services provided by a party as contemplated under this Agreement. City and District shall save and hold harmless each other and their officers, agents, and employees from all claims, suits, or actions of whatever nature arising out of this Agreement, including court costs and attorney's fees, growing out of or resulting directly or indirectly from the performance of this agreement, except that each party shall be responsible for claims arising out of their own negligent acts or omissions or those acts or omissions of their respective employees, agents, or representatives.

9. Nothing in this agreement, including any provisions for hold harmless, is intended to create any liability or obligations to pay claims on any single incident in excess of the amounts set forth in the Oregon Tort Claims Act. Specifically as to actions to which the Tort Claims Act would apply, neither party, by this agreement, is assuming a contractual liability in any form in excess of those limitations.

10. Non-discrimination. The parties agree not to discriminate on the basis of race, religion, sex, color, age, marital status, family status, sexual orientation, national origin, mental or physical disability, or source of income in the performance of this agreement.

11. Assignability. This agreement is for the exclusive benefits of the parties hereto. It shall not be assigned, transferred, or pledged by either party without the prior written consent of all the remaining parties.

12. Applicable laws. Each party agrees to comply with all applicable local,

state and federal laws, rules and regulations in the performance of this agreement.

13. **Compliance with Laws.** Each party shall comply with all applicable federal, state and local laws, rules and regulations at all times in the performance of this agreement.

14. **Notices.** Any notices permitted or required by this agreement shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to:

District: Jeff Hamm	City:
General Manager	Transit Director
Salem Area Mass Transit District	City of Wilsonville
555 Court Street, N. E., Suite 5230	30000 SW Town Center
Loop East	
Salem, OR 97301-3736	Wilsonville, OR 97070

12. **Integration.** This agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This agreement shall supersede all prior communications, representations or agreements, either oral or written, between the parties. This agreement shall not be amended except in writing, signed by both parties.

13. **Interpretation.** This agreement shall be governed by and interpreted in accordance with the laws of the state of Oregon. The parties to this agreement do not intend to confer on any third party any rights under this agreement.

14. **Jurisdiction and Venue.** All actions relating to this agreement shall be tried before the courts of the state of Oregon to the exclusion of all other courts which might have jurisdiction apart

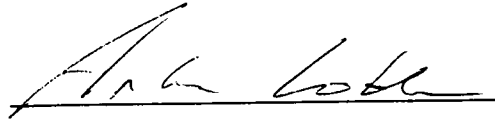
15. **Attorney Fees.** In the event of any action to enforce or interpret this agreement, the prevailing party shall be entitled to recover from the losing party reasonable attorney fees incurred in the proceeding, as set by the court, at trial, on appeal or upon review.

16. **Time of Essence.** Time is of the essence in the performance of District's obligations in accordance with the terms of this agreement.

17. **Waiver of Breach.** Waiver of any breach of any provision of this agreement by either party shall not operate as a waiver of any subsequent breach of this same or any other provision of this agreement.

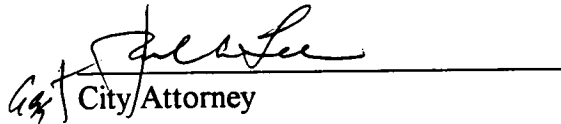
IN WITNESS WHEREOF, the parties hereto affix their signatures below.

CITY OF WILSONVILLE, OREGON  
DISTRICT



City Manager

Approved as to form:

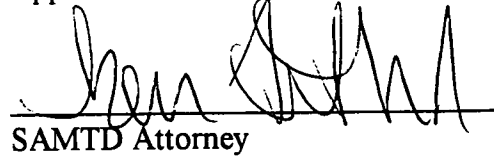
  
City Attorney

SALEM AREA MASS TRANSIT



Jeff Hamm  
General Manager

Approved as to form:

  
SAMTD Attorney