

**ORDINANCE NO. 477**

**AN ORDINANCE GRANTING AN EXCLUSIVE FRANCHISE TO TRANSPORTATION SUPPORT SERVICES, INC., AN OREGON CORPORATION, TO OPERATE A TAXICAB SERVICE IN THE CITY OF WILSONVILLE; FIXING TERMS, CONDITIONS, AND COMPENSATION OF SUCH FRANCHISE; AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Wilsonville wishes to enter into a franchise agreement with Transportation Support Services, Inc. (TSS), an Oregon corporation, 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, South Metro Area Rapid Transit (SMART) / City of Wilsonville wishes to utilize TSS as a back-up to SMART's Dial-A-Ride service for ADA (Americans with Disabilities Act)-eligible customers to ensure compliance with ADA; and

WHEREAS, the City of Wilsonville wishes to enter a franchise agreement with TSS, Inc., for one year as a demonstration project to determine the level of ADA demand; and

WHEREAS, Transportation Support Services has agreed to a flat rate of \$8.50 per ride within the Wilsonville service area for SMART ADA trips. SMART's ADA trips will have priority over regular general public service when scheduled at least twenty-four hours in advance;

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

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") grants to Transportation Support Services (TSS), Inc., 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.

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.

Section 4. Continuous Service. TSS 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 TSS 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 TSS shall at all times be maintained and operated in a safe, substantial and workmanlike manner and 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. TSS 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. TSS 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.

TSS 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, TSS shall pay to the City the sum of One Hundred Dollars (\$100). The annual compensation for 1997 shall be paid upon billing by the City of Wilsonville.

Section 9. Indemnification. TSS 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 TSS 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 TSS 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 TSS's rights herein, if TSS:
1. Violates any material term of the franchise, or
  2. Fails to commence 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 TSS or occurred as a result of circumstances beyond Grantee's control. TSS shall not, however, be excused by mere economic hardship, nor misfeasance or malfeasance of its directors, officers, or employees.

Section 12. Acceptance. TSS shall, within thirty (30) days from the date this Ordinance takes effect, 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 TSS for the transportation of persons or personal property are as follows:

Charge: \$1.70 per mile  
Minimum Charge: \$2.50  
Additional Charge of \$.50 for each person  
SMART ADA back-up rides: flat trip rate of \$8.50 per ride.


Any changes or proposed changes by TSS 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.

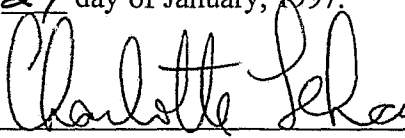
SUBMITTED to the Wilsonville City Council and read for the first and second time at a regular meeting thereof on the 23rd day of January, 1997, commencing at the hour of 8 P.M. in the City Hall Annex.

  
Sandra C. King, CMC, City Recorder

ENACTED by the City Council on January 23, 1997, by the following votes:  
YES: 4      NO: 1

  
Sandra C. King, CMC, City Recorder

DATED and signed by the Mayor this 27 day of January, 1997.

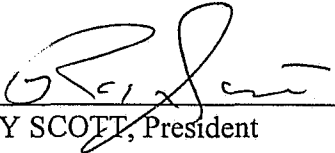
  
CHARLOTTE LEHAN, MAYOR

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor MacDonald	Yes
Councilor Luper	No
Councilor Helser	Yes
Councilor Barton	Yes

**UNCONDITIONAL ACCEPTANCE:**

Pursuant to Section 12 - Acceptance set forth hereinabove, Transportation Support Services, Inc., hereby files its written unconditional acceptance of the above adopted Ordinance No. 477 of the City of Wilsonville.

  
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ROY SCOTT, President

Date: 2-4-97

**UNCONDITIONAL ACCEPTANCE:**

Pursuant to Section 12 - Acceptance set forth hereinabove, Transportation Support Services, Inc., hereby files its written unconditional acceptance of the above adopted Ordinance No. 477 of the City of Wilsonville.

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ROY SCOTT, President

Date: \_\_\_\_\_