

**ORDINANCE NO. 494**

**AN ORDINANCE GRANTING AN EXCLUSIVE FRANCHISE WILSONVILLE CAB CO. INC., 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. 477.**

WHEREAS, the City of Wilsonville wishes to enter into a franchise agreement with Wilsonville Cab Co., Incorporated (hereinafter "Wilsonville Cab Co."), 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 continue utilizing Wilsonville Cab Co. 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, 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, Wilsonville Cab Co., has 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;

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" 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.

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 regularly scheduled airport shuttle service, limousine service that provides a chauffeur and a large model sedan such as Cadillac or Lincoln Towne Car, or 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).

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 Wilsonville Cab Co. 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 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. 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 Wilsonville Cab Co. 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:

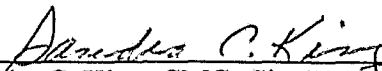
Charge: \$ 1.50 per mile  
Minimum Charge: \$ 2.50  
Additional Charge of \$ 1.00 for each person  
SMART ADA back-up rides: Flat trip rate of \$8.50 per ride

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. Ordinance No. 477 is hereby repealed.

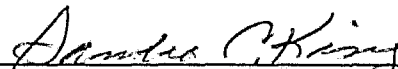
SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 1st day of December, 1997, and scheduled for a second reading at a regular meeting thereof on the 15th day of December, 1997, commencing at the hour of 7:00 P.M. at the Wilsonville City Hall Annex.

  
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Sandra C. King, CMC, City Recorder

ENACTED by the City Council on December 15th, 1997, by the following votes:

YES: 3

NO: 2

  
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Sandra C. King, CMC, City Recorder

DATED and signed by the Mayor this 17<sup>th</sup> day of December, 1997.

  
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CHARLOTTE LEHAN, MAYOR

SUMMARY OF VOTES:

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

**Grantee's Unconditional Acceptance:**

Pursuant to Section 12 - Acceptance set forth hereinabove, Wilsonville Cab Co., Incorporated hereby files its written unconditional acceptance of the above adopted Ordinance No. 494 of the City of Wilsonville.

\_\_\_\_\_  
President

\_\_\_\_\_  
Date