

1066
RESOLUTION NO. ~~1065~~

**A RESOLUTION APPROVING AGREEMENT WITH
INDEPENDENT CONTRACTOR (WILSONVILLE CHAMBER OF
COMMERCE) TO PROVIDE SERVICES TO THE CITY OF WILSONVILLE
FOR 1993-94 FISCAL YEAR.**

WHEREAS, City of Wilsonville and the Wilsonville Chamber of Commerce desire to continue to cooperatively provide tourist, economic and community development services and have mutually negotiated an agreement for fiscal year 1993-94 for the provision of those services as set forth in the agreement, marked Exhibit A, attached hereto and incorporated by reference herein.

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

The City of Wilsonville Agreement With Independent Contractor (Wilsonville Chamber of Commerce) to Provide Services to the City of Wilsonville for 1993-94 Fiscal Year, marked Exhibit A, attached hereto and incorporated by reference herein, and as recited above, is approved; and the Mayor is authorized to execute this Agreement on behalf of the City.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 1st day of November, 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	<u>AYE</u>
Councilor Carter	<u>AYE</u>
Councilor Hawkins	<u>AYE</u>
Councilor Lehan	<u>AYE</u>
Councilor Van Eck	<u>AYE</u>

**CITY OF WILSONVILLE AGREEMENT WITH
INDEPENDENT CONTRACTOR (WILSONVILLE CHAMBER OF COMMERCE)
TO PROVIDE SERVICES TO THE CITY OF WILSONVILLE
FOR 1993-94 FISCAL YEAR**

This contract is entered into effective as of the 1st day of July, 1993, by and between the City of Wilsonville, a municipal corporation of the State of Oregon, hereinafter called "City", and the Wilsonville Chamber of Commerce, an Oregon non-profit corporation, hereinafter called "Chamber".

Whereas, the City has need for the services of an independent contractor with the particular training, ability, knowledge, expertise and experience possessed by Chamber; now, therefore, in consideration of the fee described in Exhibit A (attached hereto and incorporated herein by reference), Chamber agrees to perform the services described in Exhibit A.

In performing the above services, it is understood and agreed that:

1. **STATUS.** The Chamber is currently performing independent contractor services for the City and the parties desire the provision of such services to continue as provided for herein. The parties to this contract intend that the relationship between them is that of an employer-independent contractor. No agent, employee or servant of Chamber shall be or shall be deemed to be the employee, agent or servant of the City. City is interested only in the result obtained under this contract, the manner and means of conducting the work are under the sole control of Chamber. No employee of the City should be considered to be an employee of the Chamber.
2. **WORK PERFORMED.** The work to be performed by Chamber includes contract services generally performed by Chamber in its usual line of professional expertise and business.
3. **TAXES.** Chamber will be responsible for any federal or state taxes applicable to payments received under this contract. City will report the total of all payments to Chamber, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue.
4. **BENEFITS.** Chamber will not be eligible for any federal social security, state workers' compensation, unemployment insurance, or public employees' retirement system benefits from this contract payment except as a self-employed individual.
5. **FEDERAL EMPLOYMENT STATUS.** In the event any payment made pursuant to this contract is to be charged against federal funds, Chamber certifies that it is not currently employed by the federal government and the amount charged does not exceed its normal charge for the type of services provided.
6. **HOLD HARMLESS.** Chamber and City shall defend, indemnify and hold each other harmless from and against all liability or loss and against all claims or actions based upon or arising out of damage or injury to persons or property caused by or sustained in connection with the performance of this contract, except when caused by the sole negligence or intentional act of the other.
7. **INSURANCE.** Chamber, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

8. EMPLOYEES' TAXES. Chamber shall also defend, indemnify, and hold harmless City against all liability and loss in connection with and shall assume full responsibility for, payment of all federal, state and local taxes or contributions imposed under unemployment insurance, social security, and income tax laws, with respect to Chamber's employees engaged in the performance of this contract.

9. NOTICE OF NON-RENEWAL. The parties understand that this contract does not automatically renew, but is subject to annual City budget appropriation. However, the parties will mutually cooperate with each other in providing the other with as much notice in advance of the end of the fiscal year as practical in the event either party decides not to renew this contract. In this regard, each party will use its best efforts to provide a minimum 60 days written notice of any non-renewal.

10. CONTRACT DURATION. The duration of this contract shall be as described in Exhibit A. This fact notwithstanding, the services of Chamber shall be authorized and paid for as described in Exhibit A. Exhibit A is attached hereto and incorporated by reference as if fully set forth herein.

11. ARBITRATION. Any dispute or claim that arises out of or that relates to this agreement, or to the interpretation or breach thereof, shall be resolved by binding arbitration in accordance with the then effective arbitration rules of Arbitration Service of Portland, Inc. or the American Arbitration Association, whichever organization is selected by the party which first initiates arbitration by filing a claim in accordance with the filing rules of the organization selected, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

12. ATTORNEY'S FEES. In the event suit or action is brought, or an arbitration proceeding is initiated, to enforce or interpret any of the provisions of this agreement, or which is based thereon, the prevailing party shall be entitled to reasonable attorney fees in connection therewith. The determination of who is the prevailing party and the amount of reasonable attorney's fees to be paid to the prevailing party shall be decided by the arbitrator(s) (with respect to attorney fees incurred prior to and during the arbitration proceedings) and by the court or courts, including any appellate court, in which such matter is tried, heard, or decided, including the court which hears any exceptions made to any arbitration award submitted to it for confirmation as a judgment (with respect to attorney fees incurred in such confirmation proceedings).

CITY OF WILSONVILLE

WILSONVILLE CHAMBER
OF COMMERCE

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Date _____

Date _____

EXHIBIT A

WHEREAS, the City Council of the City of Wilsonville (City), on determining the need for services of the Wilsonville Chamber of Commerce (Chamber), has authorized the appropriation from its General Fund, Non-Departmental, Tourist Development, of an amount equal to 40% of its 93-94 fiscal-year Transient Lodging Tax revenues (budgeted as revenue line item Hotel-Motel Occupancy Tax, General Fund Operating Revenues) to the Chamber during the fiscal year ending June 30, 1994.

NOW, THEREFORE, for and in consideration of the mutual terms and conditions herein contained to be faithfully performed and kept by the City and Chamber, said parties do mutually agree as follows:

A. Scope of Services: The Wilsonville Chamber of Commerce shall provide organization, administration, staff, facilities and supplies for the general visitor information services to local and non-local visitors to the City of Wilsonville and surrounding community (collectively "Community"), including the following:

1. Receive visitor/tourist and convention inquiries and answer visitor related correspondence, in-person inquiries, and telephone calls. The Visitors' Information Center shall maintain office hours from 9:00 A.M. to 5:00 P.M., Monday through Friday, excepting observance of all holidays recognized by the City.
2. The Chamber shall continue to operate the existing Visitor's Information Center located in a portion of the Chamber's offices at 8880 SW Wilsonville Road, Wilsonville, Oregon. The Chamber shall maintain an inventory of Community visitor related literature for free distribution to visitors, that cover the following general areas for the Community:
 - a. Local and regional attractions;
 - b. Accommodations;
 - c. Tourist oriented activities and events; and
 - d. Area historic attractions.

The Chamber shall make available said materials to all Community motels and visitor related Community businesses as needed to maintain an adequate supply of visitor related materials at those establishments.

3. The Chamber shall prepare and print a Community Visitors Information Guide and Community Visitors map updated at least annually and in adequate quantity for distribution through Community offices, lodging, dining visitor attractions and in the Visitors' Information Center for the contract period.
4. The Chamber shall use its best efforts to communicate and cooperate with the State of Oregon, Clackamas and Washington County's tourism councils and bureaus in order to promote Community tourism related activities; and the Chamber shall report to the City regularly on programs and changes affecting Wilsonville tourism and economic development.
5. To promote the Community, the Chamber shall maintain the existing audio-visual library of Community visitor attractions, events, and way of life and make the materials available to the City and other organizations interested in the Community and which reasonably request said materials.

6. The Chamber shall provide the existing portable display suitable for use by the Chamber and the City to display materials promoting the Community and its businesses at events, conferences and meetings.
 7. The Chamber shall make a quarterly report of Chamber contract activities to the Wilsonville City Council at a time convenient to both parties.
 8. The Chamber shall publish an annual Community business directory as an information resource and for promotion of the Community.
 9. The Chamber shall provide for one non-political city public service announcement per month to be inserted in the monthly Chamber newsletter as part of this contract. Announcements shall be limited to one sheet, 8 1/2 x 11 inches, printed one or two sides in quantity to meet circulation requirements of the Chamber. These inserts will be supplied by the City by the 20th day of each month.
 10. The Chamber shall provide, on or before 90 days prior to the end of the contract term, a strategic plan for the development of future tourism services, projects and funding allocations.
 11. Chamber acknowledges that any contract entered into between the Chamber and third parties shall not be the obligation of the City, and the Chamber shall not represent that it has power or authority to contractually obligate the City.
 12. Chamber shall cooperate with any government agency as may be reasonably requested by the City in preparation of various studies and reports which reasonably relate to the Chamber's activities under paragraph A of the contract. The Chamber shall not be obligated, however, to financial support or assist in any study or report not a part of this agreement or subsequent agreements; nor shall its cooperation constitute an endorsement of such study or report or any results or recommendations therefrom.
 13. Chamber shall not discriminate in providing Community services on the basis of race, religion, color, national origin, sex, marital status, age, or mental or physical handicap.
 14. Chamber agrees that no part of the funds stated in paragraph C shall be used for any political activity whatsoever, whether or not the actions of the City are involved.
- B. Record Keeping.** The Chamber shall maintain adequate accounting records of all revenues and expenditures with supporting invoices. Said records shall be retained by the Chamber for a period of seven (7) years. The Finance Director of the City or any person authorized in writing by the Finance Director may examine upon reasonable notice during normal business hours, the books, papers, and accounting records of the Chamber as it relates to the activities covered by this contract. Information regarding the contents of the books, papers, and accounting records shall be considered confidential, provided that nothing shall prevent the disclosure to other City and Chamber officials and/or agents for the purpose of enforcing provisions of the contract. The City acknowledges its duty under law to maintain adequate accounting records of the Transient Lodging Tax revenues received by the City and of the amounts due and paid to the Chamber. The City further acknowledges that such records may be inspected and copied by the public,

subject to a confidentiality privilege as it may pertain to specific types of business records and information as set forth in ORS 192.502(16) and W.C. 7.270(3).

C. Payment. The City shall pay to the Chamber an amount not to exceed 40% of the Transient Lodging Tax revenues collected for the fiscal year ending June 30, 1994; payable in quarterly installments at the beginning of each quarter, following a statement from the Chamber. The City shall include with said payment a quarterly report of the amount received by the City in Transient Lodging Tax revenues.

D. Grant Use.

(1) Except as provided below for expenditures to promote Community festivals and events, the grant of 40% of the Transient Lodging Tax revenues to the Chamber (Chamber's Grant) shall be used by the Chamber for the Chamber's expenses and other costs for the operation of the existing Visitors' Information Center and preparation and distribution of related tourism materials and perform other obligations as provided in paragraphs 1 - 14 above. If the Chamber's Grant equals \$60,000, then \$10,000 of the Chamber's Grant shall be available for the Chamber's use to promote Community festivals and events (Festivals), as further described in paragraph D(2) below. If the amount of the Chamber's Grant totals more than \$60,000, then all sums over \$60,000 would be available for Festivals; if the Chamber's Grant totals less than \$60,000, then a percentage of \$10,000 equal to the percentage of the shortfall would be available for Festivals. The Chamber may withhold up to 10% of festival and event grants for administration and processing of grants to other organizations.

(2) A portion of the Chamber's Grant shall be available for the Chamber's use in its discretion and with its best efforts to promote Festivals, such as: Boones Ferry Days of Wilsonville, Enter 2000, July 4th Barbecue, Wilsonville Trade Show, and Sister City Activities; provided that said Festivals shall be selected and funded under this contract only after the Chamber determines which Festivals are in the best interests of the Community, which determination shall be in the sole discretion of the Chamber Board of Directors.

E. The City, in performing its obligations under this contract, acknowledges that any contract entered into between the City and third parties shall not be the obligation of the Chamber, and the City shall not represent that it has power or authority to contractually obligate the Chamber.

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In performing the above services, it is understood and agreed that:

1. STATUS. The Chamber is currently performing independent contractor services for the City and the parties desire the provision of such services to continue as provided for herein. The parties to this contract intend that the relationship between them is that of an employer-independent contractor. No agent, employee or servant of Chamber shall be or shall be deemed to be the employee, agent or servant of the City. City is interested only in the result obtained under this contract, the manner and means of conducting the work are under the sole control of Chamber. No employee of the City should be considered to be an employee of the Chamber.
2. WORK PERFORMED. The work to be performed by Chamber includes contract services generally performed by Chamber in its usual line of professional expertise and business.
3. TAXES. Chamber will be responsible for any federal or state taxes applicable to payments received under this contract. City will report the total of all payments to Chamber, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue.
4. BENEFITS. Chamber will not be eligible for any federal social security, state workers' compensation, unemployment insurance, or public employees' retirement system benefits from this contract payment except as a self-employed individual.
5. FEDERAL EMPLOYMENT STATUS. In the event any payment made pursuant to this contract is to be charged against federal funds, Chamber certifies that it is not currently employed by the federal government and the amount charged does not exceed its normal charge for the type of services provided.
6. HOLD HARMLESS. Chamber and City shall defend, indemnify and hold each other harmless from and against all liability or loss and against all claims or actions based upon or arising out of damage or injury to persons or property caused by or sustained in connection with the performance of this contract, except when caused by the sole negligence or intentional act of the other.
7. INSURANCE. Chamber, its subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

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CITY OF WILSONVILLE

WILSONVILLE CHAMBER
OF COMMERCE

By Gerald A. Krummel

By _____

Name Gerald A. Krummel

Name _____

Title Mayor

Title _____

Date November 1, 1993

Date _____

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