

**ORDINANCE NO. 1139**

**AN ORDINANCE AMENDING ARTICLES 15 AND 16 OF TRANSIT CONTRACT DATED JUNE 19, 2002, BETWEEN CITY OF CANBY, HEREINAFTER REFERRED TO AS "CITY" AND OREGON HOUSING AND ASSOCIATED SERVICES, INC. (OHAS), dba WHEELS COMMUNITY TRANSPORTATION, HEREINAFTER REFERRED TO AS "CONTRACTOR" REGARDING INSURANCE PROVISIONS BETWEEN THE PARTIES, AND DECLARING AN EMERGENCY.**

**WHEREAS**, "City" entered into a contract, dated June 19, 2002 with "Contractor" for the purpose of providing bus service for the citizens of the City of Canby, and

**WHEREAS**, it is the desire of the parties to amend Articles 15 and 16 of said Contract to reflect changes in the Insurance provisions provided therein, now therefore

**THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. Article 15 of the Transit Contract dated June 19, 2002 is amended to read as follows:

**ARTICLE 15. INSURANCE**

***Contractor shall procure and maintain, at Contractor's sole expense, at all times during the duration of this Contract, the following kinds and forms of insurance, which shall include as an Additional Insured, the City of Canby, its Elected Officials, Officers, Employees, Agent and Volunteers, from any and all claims for Bodily Injury, Death, or Property Damage, which may arise from Contractor's operations under this Contract.***

***Other additionally insured certificates shall be provided as required, i.e., Oregon Department of Transportation, Federal Transit Administration, Tri-Met, etc.***

**A. General Liability Insurance**

***Contractor shall provide evidence of General Liability insurance, with a minimum per occurrence limit of \$1,000,000.00, and an aggregate limit of \$2,000,000.00. The insurance coverage shall include, but not be limited to, Premises and Operations, Products and Completed Operations, Personal and Advertising Injury Liability and Contractual Liability, which shall apply to the indemnity provisions contained in this Contract.***

## **B. Vehicle Coverage**

**City shall provide vehicle coverage with limits no less than \$1,000,000.00 and name Contractor as additionally insured.**

## **C. Workers' Compensation Insurance**

**Contractor shall procure and maintain Workers' Compensation coverage and Employers Liability coverage in accordance with the laws of the State of Oregon.**

**Minimum coverage limit for Employers Liability shall be \$1,000,000.00.**

**Contractor shall also provide City with evidence of insurance for any and all subcontractors that Contractor may employ regarding this Contract.**

**Contractor shall provide City with updated Certificate(s) of Insurance evidencing the required coverages. Certificates and evidence of insurance shall also provide the following:**

- Minimum thirty days written notice of policy or coverage cancellation, or material alteration or reduction in coverages or coverage limits.**
- Contractor's insurance carrier(s) shall be liable for the full amount of any loss or claim for which Contractor is liable, up to and including the total limit of liability, without right of contribution from any other insurance which may be in effect for the benefit of City.**

**The insurance policies shall be written by an insurance company or companies authorized to conduct business in the State of Oregon and acceptable to City. All insurance carriers shall carry a Best Rating of "A" or better.**

**Any liability arising on behalf of Contractor with regard to this Contract is not limited by the insurance requirements listed above.**

**Contractor shall provide the City Transit Director copies of completed accident reports within seven days after an accident.**

**Contractor shall notify law enforcement officers and the City Transit Director of any vehicle accident, missing, vandalized or stolen vehicles or equipment or incidents involving the vehicle and any operations that might result in a claim within 24 hours of discovery. Incident reports shall include date, time, and employee narrative along with name, address, and phone contact of all parties involved.**

Section 2. Article 16 of the Transit Contract dated June 19, 2002 is amended to read as follows:

**ARTICLE 16. INDEMNIFICATION**

***Contractor shall take all responsibility for the work, other than vehicle related as provided for by the City in Article 15 B., shall bear all losses and damages directly or indirectly resulting to him, to any subcontractor, to City, to City officers and employees, or to parties designated by City, on account of the performance or character of the work, unforeseen difficulties, accidents, occurrences or other causes predicated on active or passive negligence of Contractor or of any subcontractor. Contractor shall indemnify, defend and hold harmless City, its officers, officials, directors, employees and agents from and against any or all loss, liability, expense, claim, costs (including costs of defense), suits, and damages of every kind, nature and description directly or indirectly arising from the performance of the work. This paragraph shall not be construed to exempt City, its employees and officers from loss caused solely by the negligence of City or from its own fraud, willful injury or violation of law whether willful or negligent. By execution of this Contract, Contractor acknowledges and agrees that it has read and understands the provisions hereof and that this paragraph is a material element of consideration.***

***City shall take all responsibility for vehicle related accidents or occurrences as provided for in Article 15 B., shall bear all losses and damages directly or indirectly resulting to Contractor, Contractor officers and employees in the event of vehicle accidents or occurrences.***

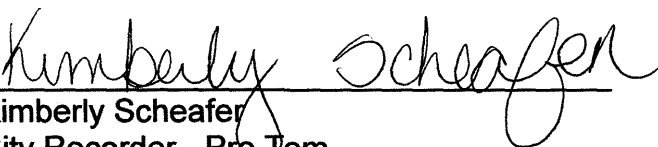
***Approval of the insurance contracts does not relieve Contractor or subcontractors from liability under this paragraph, including but not limited to the duty to indemnify City set forth herein.***

Section 3. All other sections, not amended in this Ordinance, shall remain in full force and effect as they presently appear.

Section 4. It being in the best interests of the citizens of the City of Canby that the insurance provisions of the current contract be amended immediately, an emergency is hereby declared to exist and this amendment become effective immediately upon second reading.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, May 5, 2004, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter

and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, May 19, 2004, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

  
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Kimberly Scheafer  
City Recorder - Pro Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on May 19, 2004, by the following vote:

YEAS   6  

NAYS   0  

  
\_\_\_\_\_  
Melody Thompson, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Kimberly Scheafer, City Recorder - Pro Tem