

**BANFIELD LIGHT RAIL PROJECT
CONTINUING CONTROL AGREEMENT
CITY OF PORTLAND**

THIS AGREEMENT is made and entered into by and between the City of Portland, Oregon (hereinafter referred to as the "City") and the Tri-County Metropolitan Transportation District of Oregon (hereinafter referred to as "Tri-Met").

W I T N E S S E T H

WHEREAS, the City of Portland adopted Resolution No. 32279 recommending that light rail transit be developed, linking downtown Portland with the City of Gresham, and

WHEREAS, Tri-Met plans to construct a portion of the Banfield Light Rail Project (hereinafter referred to as "Project"), in public rights-of-way under City jurisdiction; such construction to be carried out in accordance with the Design Services Agreement, dated August 4, 1982, and subject to the execution of construction and maintenance agreements and to the issuance by the City of construction permits, and

WHEREAS, the project is to be constructed utilizing, in part, Federal funds provided to Tri-Met by the Urban Mass Transportation Administration (hereinafter referred to as "UMTA"), pursuant to UMTA Grant Agreement OR-23-9001, and OR-03-0025, as consolidated and amended, and

WHEREAS, UMTA retains a continuing interest in its capital investment in the Project, and this Agreement is necessary to satisfy the continuing control requirements of UMTA as set forth in 49 U.S.C. Section 1602 (a)(2)(A)(ii), and the grant agreement between UMTA and Tri-Met for the Project.

NOW, THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows:

1. Subject to City approval of detailed final plans and specifications for the Project, the execution of a maintenance agreement or agreements between the City and Tri-Met, and the issuance of a construction permit or permits, for the Project by the City, the City grants to Tri-Met a perpetual permit to operate and maintain the Project on approved City rights-of-way. The permit shall be revocable only under specific conditions, as follows:
 - a. In the event Tri-Met permanently ceases operation of the Project within the City, then the City may revoke the permit and require Tri-Met to restore the City rights-of-way to their original intended purpose.

- b. In the event the City Engineer determines that defects in, or improper maintenance of, Project elements assigned to Tri-Met by approved maintenance agreements are threatening the health, welfare, safety or property of the general public, and Tri-Met fails to correct the deficiencies within a reasonable period of time following written notification by the City to Tri-Met and UMTA, then the City may suspend this permit in whole or as to limited rights-of-way and refuse to reinstate it until such time as the deficiencies are corrected.
2. Tri-Met's rights hereunder shall be subject to the provisions of City ordinances and regulations and agreements between Tri-Met and the City covering the following matters:
- a. Restrictions on Private Property Development, Construction and Maintenance.
- (1) City amendment to the City Code and administrative rules to minimize interference with normal operation of the light rail system caused by the construction and maintenance activities of private parties on private property and public right-of-way.
 - (2) City amendment to the City Code and administrative rules to provide that, except as provided in the Project plans, before permitting construction of any private property driveways or other accessways that turn into or intersect the light rail alignment or interchange ramps, the City shall provide Tri-Met with an opportunity to review and comment on the design plans and specifications.
- b. Restrictions on Public Improvements.
- (1) Agreement that, except as provided in the Project plans, before constructing any street or way that turns into or intersects the light rail alignment or interchange ramps, the City shall provide Tri-Met with an opportunity to review and comment on the design plans and specifications.
 - (2) City adoption of an Ordinance to restrict traffic and other street uses within the light rail corridor, to protect the light rail line from interference by parked or other encroaching vehicles, and to protect the light rail line from other interference. It is anticipated that the Ordinance will prevent parking immediately adjacent to the light rail line and will prevent encroachments with the exceptions noted in Subsection (5) below and other limited encroachments authorized by permit. Before adopting the Ordinance and before amending the Ordinance after adoption,

the City shall give Tri-Met an opportunity to review the proposed Ordinance or amendment and to be heard regarding its contents.

- (3) Agreements requiring the City to notify Tri-Met of any future changes by the City or approved through permit by the City including traffic control measures, that may affect the operation of the light rail system and requiring the City to work with Tri-Met to mitigate the impact of the change on operation of the system.
- c. **Restrictions on Privately- and Publicly-Owned Utilities:** City Engineer adoption of specifications requiring any utility construction within the light rail corridor to use methods that, to the extent feasible, allow light rail operations to continue during construction.
- d. City amendment of the City Code to establish Tri-Met authority to perform maintenance on light rail facilities under permit from the City Engineer. Tri-Met will be required to obtain a permit, in accordance with the amended City Code, prior to beginning work, except in an emergency, in which case Tri-Met will be required to obtain a permit at the beginning of the next City work-day.
- e. **Circumstances Under Which the City May Allow Temporary Interference with Light Rail Operations:**
- (1) For emergency vehicles and operations, including but not limited to, police, fire, medical, water, sewer, street, and, under certain circumstances, privately-owned utilities.
 - (2) For parades and other civic events, including but not limited to, the Rose Festival, Art Quake and other special events.
 - (3) Major public or private construction, but in no case so as to interfere with operations on more than one track at any one time.
 - (4) Except in the case of emergency, City will not allow interference with light rail operations without reasonable advance notice to Tri-Met.
- f. The City will use its best efforts to minimize the frequency and duration of any interference with light rail operations, and agrees to not allow any interference that would prohibit Tri-Met from building, operating or maintaining the Project.

- 3. If any public body acquires or succeeds Tri-Met, Tri-Met's interest, rights, and obligations created by this Agreement, will be assignable by Tri-Met or UMTA to the public body that acquires or succeeds Tri-Met.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

CITY OF PORTLAND

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON

By _____
Commissioner of Public Works

By _____
[Signature]

Date _____

Title General Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

M Brian Playfair
Contracts and Legal Services

Auditor

ORDINANCE No. 154995

An Ordinance authorizing the City to enter into a Continuing Control Agreement with the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) for the Banfield Light Rail Project, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Tri-Met plans to construct a portion of the Banfield Light Rail Project in public rights-of-way under City jurisdiction.
2. The project will be constructed utilizing federal funds provided by the Urban Mass Transportation Administration (UMTA).
3. The proposed Continuing Control Agreement is necessary to satisfy the continuing control requirements of UMTA.

NOW, THEREFORE, the Council directs:

- a. The Auditor and the Commissioner of Public Works are authorized to execute on behalf of the City, an agreement similar in form to the agreement attached to the original only of this ordinance and by this reference made a part hereof.

Section 2. The Council declares that an emergency exists in order to avoid unnecessary delay to the light rail project; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **AUG 24 1983**

Commissioner Mike Lindberg
G. R. Pierce:mw
August 16, 1983

JEWEL LANSING

Auditor of the City of Portland

By *Erna Cervera*

Deputy

Calendar No. **2214**

ORDINANCE No. 154995

Title

An Ordinance authorizing the City to enter into a Continuing Control Agreement with the Tri-County Metropolitan Transportation District of Oregon (Tri-Met) for the Banfield Light Rail Project, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN	/	
LINDBERG	/	
SCHWAB	/	
STRACHAN		+
IVANCIE	/	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

AUG 18 1983

Filed _____

JEWEL LANSING
Auditor of the CITY OF PORTLAND

By *Dennis Wells*
Deputy

INTRODUCED BY
COMMISSIONER MIKE LINDBERG

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>ML/mo</i>

BUREAU APPROVAL
Bureau:
Street & Structural Engineering
Prepared By: G.R. Pierce:mw Date: August 16, 1983
Budget Impact Review:
<input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required
Bureau Head: <i>Ralph Tashima</i> Acting <i>Ralph Tashima</i> Ralph Tashima, Bureau Chief

CALENDAR	
Consent <input checked="" type="checkbox"/>	Regular <input type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer <i>R.O. Schmidt</i> R.O. Schmidt, P.E.