

BEFORE THE COUNCIL INTERNAL AFFAIRS COMMITTEE OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENTERING INTO ) RESOLUTION NO. 88-954  
AN INTERGOVERNMENTAL AGREEMENT )  
FOR THE PURCHASE OF THE JEFFERSON ) Introduced by  
STREET RAIL LINE ) Councilor Jim Gardner

WHEREAS, The Metropolitan Service District has been participating in the Jefferson Street Project local government consortium since December 1986; and

WHEREAS, The rail line is a valuable transportation resource which should be preserved; and

WHEREAS, Resolution No. 87-834 established the intent of the Metropolitan Service District to budget \$20,898 in FY 1989 as the Metropolitan Service District's 5 percent share of the local match needed to purchase the line; and

WHEREAS, The aforementioned resolution stipulates that the actual purchase be contingent on final release of the "stripper well" funds and a favorable Multnomah County Circuit Court decision in the case of Southern Pacific Transportation Company and City of Portland vs. Thomas W. and Emily M. Cummins; and

WHEREAS, The "stripper well" funds have been released and a favorable court verdict has been returned; and

WHEREAS, Resolution No. 87-834 recommends that an Intergovernmental Agreement be formed to state the commitment of each government with respect to the purchase of the rail line; and

WHEREAS, That Agreement has been drafted (attached to this resolution) and has been unanimously approved by the Jefferson Street Project Policy Advisory Committee; now, therefore,

BE IT RESOLVED,

That the Council Internal Affairs Committee of the Metropolitan Service District:


1. Affirms its support for preservation of the Jefferson Street Branch rail line as a public transportation resource by the timely, cooperative public purchase of the corridor.

2. Affirms the Metropolitan Service District's share of the purchase price at \$20,898.

3. Affirms all terms set forth in the attached Intergovernmental Agreement.

ADOPTED by the Council Internal Affairs Committee of the Metropolitan Service District

this 14th day of July, 1988.

  
\_\_\_\_\_  
Mike Ragsdale, Presiding Officer

RB/gl  
9818C/545  
07/01/88

June 14, 1988

**INTERGOVERNMENTAL AGREEMENT FOR THE PURCHASE  
OF THE  
JEFFERSON STREET RAIL LINE**

THIS AGREEMENT is entered into by and between the CITY OF PORTLAND, OREGON (Portland), the METROPOLITAN SERVICE DISTRICT (Metro), the CITY OF LAKE OSWEGO, OREGON (Oswego), MULTNOMAH COUNTY, OREGON (Multnomah), and CLACKAMAS COUNTY, OREGON (Clackamas). The parties shall collectively be referred to as the "governmental bodies".

**RECITALS:**

A. Portland and Oswego are municipal corporations of the State of Oregon organized and existing under the laws of the State of Oregon. Multnomah is a home rule political subdivision and Clackamas is a general law county of the State of Oregon organized and existing under the laws and constitution of the State of Oregon. Metro is a municipal corporation of the State of Oregon established under Chapter 268 of Oregon Revised Statutes.

B. This Agreement is entered into pursuant to Chapter 190 of Oregon Revised Statutes. Oswego enters into this Agreement pursuant to the authority granted by S4 of its City Charter as well as ORS Chapter 190; and Portland entered into this Agreement pursuant to the authority granted by S2-105 of its Charter, as well as ORS Chapter 190.

C. In December of 1986, the governmental bodies entered into an Intergovernmental Agreement to Option and Lease the Jefferson Street Rail Line. That intergovernmental agreement was amended in June of 1986 to include the Tri-County Metropolitan Transportation District (Tri-Met).

D. In August of 1987, the governmental bodies and Tri-Met entered into an Intergovernmental Operations Agreement.

E. The terms and conditions of both the aforesaid intergovernmental agreements have been complied with in all material respects, and the purposes of those intergovernmental agreements have been fulfilled.

F. Each governmental body has passed a resolution committing to budget funds for the purchase of the Jefferson Street Rail Line from the Southern Pacific Transportation Company.

G. The governmental bodies desire to purchase the Jefferson Street Rail Line in order to preserve it for public rail mass transit use.

TERMS:

1. The Intergovernmental Agreement to Option and Lease the Jefferson Street Rail Line, as amended, and the Intergovernmental Operations Agreement are hereby terminated and superseded by this Intergovernmental Purchase Agreement:

2. The governmental bodies shall contribute financially to the purchase of the Jefferson Street Rail Line in the following ratios and amounts:

Portland	52%	\$217,334
Oswego	21%	87,770
Clackamas	11%	45,975
Multnomah	11%	45,975
Metro	5%	20,898

The total contributions of all governmental bodies shall be called the "purchase fund."

3. Oswego shall deliver to the City Treasurer of Portland a check in the amount of its proportional share prior to July 1, 1988. Multnomah, Clackamas and Metro shall deliver to the City Treasurer of Portland checks in the amounts of their proportional shares prior to August 1, 1988. If mutually agreed by Portland and a governmental body, the date of payment for that governmental body may be extended to a later date which is mutually convenient. The purchase fund may be used by Portland to pay expenses of the purchase, preservation costs, previously unpaid legal fees and consultant costs, and payment to Oswego for construction of the Lake Oswego Rail Extension. The purchase fund shall not be used for future rail operations on the line.

In the event that the Jefferson Street Rail Line is not purchased, the purchase fund shall be used to pay previously unpaid legal fees and consultant costs, and the balance of the funds shall be reimbursed to the governmental bodies in the ratios of their contributions to the purchase fund.

4. Portland is authorized to execute a purchase agreement with the Southern Pacific Transportation Company for the purchase of the Jefferson Street Rail Line upon final unconditional release of the stripper-well funds to Portland. As a part of the purchase agreement, Portland shall secure by a sufficient property interest the right to locate, construct and maintain the Lake Oswego extension and station platform and structure referred to in Paragraph 6 of the Option to Purchase, dated January 30, 1987, as that right was clarified in the letter, dated December 31, 1987, which exercised the option to purchase.

5. Portland shall hold title, in its capacity as a representative of the governmental bodies, to the Jefferson Street Rail Line, including the Lake Oswego extension, in order to preserve it for public rail mass transit use. Portland agrees not to use title to the right-of-way to extend the boundaries of

Portland or to affect in any way the legal status of any proposed annexations. The other governmental bodies shall have no legal interest in the Jefferson Street Rail Line except for the rights specifically provided for in this Agreement.

6. If at any time Portland determines that the costs of holding title to the right-of-way are too high for Portland to continue to bear, Portland may request financial assistance from the participating governments for maintenance and preservation of the right-of-way, including actions aimed at reducing liability to the City. If the other governmental bodies decline to provide adequate financial assistance, Portland may sell, dispose of or change the use in the Jefferson Street Rail Line right-of-way after 270 days written notice to the other governmental bodies, such notice to allow the governmental bodies to adequately integrate into their budget cycle the fiscal impact of the right-of-way transfer.

Upon receipt of such notice, one or more of the governmental bodies may offer in writing to take title to the Jefferson Street Rail Line. If one or more of the governmental bodies requests title after the aforesaid notice, Portland shall promptly transfer title for \$1.00 to such governmental body or bodies, provided that Portland shall thereby be released from any further liability or responsibility with respect to the line, and provided that such governmental body or bodies grant Portland and any other governmental bodies not taking title to the right-of-way the same right of first refusal as is contained in this Section 6. Portland and the governmental body or bodies accepting the title will share in any closing costs for the title transfer.

If no governmental body has requested title to the right-of-way within 270 days after the date of the written notice of Portland's intent to divest itself of title or change use Portland shall offer title to the Jefferson Street Rail

Line on the same terms as offered to the governmental bodies to Tri-Met and the Oregon Department of Transportation. Such notice may be given prior to the refusal to take title by the parties to this agreement if conditioned as a right of second refusal. If neither Tri-Met nor ODOT accepts the offer Portland may sell, dispose of or change the use of the right-of-way in Portland's sole discretion. Any net income realized from the disposition of the property shall be apportioned among the governmental bodies in a manner proportionate to their contributions under this Purchase Agreement.

7. Portland shall allow the governmental bodies access to the right-of-way in accordance with Chapter 17.24, Permits, of the City Code of Portland. No permit fees shall be charged to the requesting governmental body. Likewise, no governmental body shall charge Portland permit fees for any use of or activity within the right-of-way.

Oswego shall have access to the entire right-of-way for interim trolley operation purposes, and Portland and the other governmental bodies shall not unreasonably withhold permits or other approvals necessary to allow such operations. Oswego's right of access shall be conditioned on the following:

a. Any interim trolley operation will be secondary to the potential development of rail mass transit uses in the right-of-way. If interim trolley operation is not compatible with rail mass transit uses, that portion of the right-of-way developed for rail mass transit shall not be accessible for interim trolley operation.

b. Oswego shall indemnify and defend Portland and shall provide adequate insurance or self-insurance which names Portland as insured.

c. Oswego shall provide any capital improvements and routine maintenance necessary to preserve the safety of the traveling public and adjacent property owners and occupants, and/or to meet the requirements of the

Oregon Public Utility Commission and/or to meet the requirements of any other regulatory agency with jurisdiction over the line.

d. Oswego shall provide a mechanism for addressing the concerns of adjacent property owners and occupants.

e. Oswego shall certify to Portland that interim trolley operations conducted by Oswego conform with the laws and regulations governing rail passenger service and shall accept legal responsibility for compliance with all such laws and regulations.

f. Oswego shall pay all taxes and assessments assessed as a result of Oswego's operation of interim trolley service. Oswego shall indemnify Portland for all assessments to Portland resulting from Oswego's operation.

g. Operation by Oswego shall commence only after reaching agreement with Portland on these issues, such agreement not to be withheld unreasonably.

The purpose of these and any other requirements that Portland may impose upon Oswego is to insure that Oswego's operation of interim trolley service on the line does not generate cost expenditures or liabilities not expressly agreed to by Portland.

Portland shall also allow Oswego access for the construction of the Lake Oswego Extension, the platform and the station structure on the extension.

8. Portland shall pay Oswego \$200,000 in local funds within 30 days after receipt of all contributions to the purchase fund described in Section 2 above, or within 30 days after unconditional release of stripper-well monies to Portland, whichever date occurs last. Oswego shall use that money, and interest accrued on that money, for expenses related to the Lake Oswego Extension, platform and station structure.



Upon Oswego's satisfying State of Oregon stripper-well grant conditions for release of stripper-well monies, Portland shall assist Oswego in receiving up to a maximum of \$200,000 in stripper-well monies. All decisions relating to construction of the Lake Oswego Extension including the decision to not construct shall be made by Oswego. Portland shall not unreasonably withhold necessary approvals or fail to execute any necessary agreements in its capacity as title holder to cooperate with Oswego in its efforts to improve the extension. Oswego shall be responsible for insuring that the State re-budgets or re-allocates the stripper-well monies for the Lake Oswego Extension should a construction contract not be awarded in the State's current or any subsequent budget year, and Portland will assist Oswego in this effort.

If Oswego has not awarded a construction contract for the Lake Oswego rail extension within 10 years after the date of unconditional release of the stripper-well monies to Portland, Oswego shall return the \$200,000 from local funds, plus interest accrued during the holding period, to the governmental bodies in the ratios designated in Section 1 of this agreement.

9. This agreement sets forth the entire obligation of the governmental bodies to each other in connection with the Jefferson Street Rail Line project herein described. No governmental body shall have further obligation for any future act connected with the project, including financial support, except as set forth in this agreement.

**CITY OF PORTLAND, OREGON**

**APPROVED AS TO FORM**

By \_\_\_\_\_  
Commissioner of  
Public Works

By \_\_\_\_\_

By \_\_\_\_\_  
City Auditor

**CITY OF LAKE OSWEGO, OREGON**

**APPROVED AS TO FORM**

By \_\_\_\_\_  
William E. Young, Mayor

By \_\_\_\_\_  
City Attorney

By \_\_\_\_\_

**MULTNOMAH COUNTY, OREGON  
BOARD OF COUNTY COMMISSIONERS**

**APPROVED AS TO FORM**

By \_\_\_\_\_  
County Executive

By \_\_\_\_\_  
County Counsel

**CLACKAMAS COUNTY, OREGON**

**APPROVED AS TO FORM**

By \_\_\_\_\_  
Chairman  
Board of Commissioners

By \_\_\_\_\_  
County Counsel

By \_\_\_\_\_  
Commissioner

**METROPOLITAN SERVICE DISTRICT**

**APPROVED AS TO FORM**

By \_\_\_\_\_  
Executive Officer

By \_\_\_\_\_  
Attorney for Metro

RMM:jwp.10  
(Agreement)

STAFF REPORT

Agenda Item No. 1.3

Meeting Date July 14, 1988

CONSIDERATION OF RESOLUTION NO. 88-954 FOR THE  
PURPOSE OF ENTERING INTO AN INTERGOVERNMENTAL  
AGREEMENT FOR THE PURCHASE OF THE JEFFERSON  
STREET RAIL LINE

Date: June 30, 1988

Presented by: Councilor Gardner

FACTUAL BACKGROUND AND ANALYSIS

The Metropolitan Service District (Metro) has been participating in the Jefferson Street Rail Project local government consortium since December 1986. Resolution No. 87-834, adopted by the Metro Council on December 22, 1987, established the Council's intent to budget \$20,898 in the FY 1989 budget as Metro's 5 percent share of the local match needed to purchase the rail line and recommended that an Intergovernmental Agreement be drafted to state the commitment of each government with respect to purchase of the line. That resolution also stipulates that actual purchase of the rail be conditioned on a favorable Multnomah County Circuit Court decision in Southern Pacific Transportation Company and City of Portland vs. Thomas W. and Emily M. Cummins, No. A8705-02900 and a final unconditional release of the federal "stripper well" funds. Both of those stipulations have occurred. Portland and the Southern Pacific Railroad were successful in their suit against Cummins and the federal stripper well funds were released on June 21, 1988.

The attached resolution would enter Metro into an Intergovernmental Agreement with the City of Portland, the city of Lake Oswego, Multnomah County and Clackamas County and would commit the match to actually purchase the rail line. The contribution from each jurisdiction is as follows:

Portland	52%	\$217,334
Lake Oswego	21%	87,770
Clackamas County	11%	45,975
Multnomah County	11%	45,975
Metro	5%	20,898
TOTAL		<u>\$417,952</u>

On June 14, 1988, the Jefferson Street Policy Advisory Committee met and unanimously endorsed the decision to purchase the line under the terms set forth in the attached Intergovernmental Agreement. Major stipulations include that Portland shall hold title to the line; that money is allocated to construct the extension to Lake Oswego; and that monies may be used only for the purchase and preservation

of the line. None of the funds would be available to fund rail operations. In addition, Metro would have no further obligation for any future act connected with the project.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 88-954.

RB/sm  
9818C/545  
07/01/88