1-1-1980

Exhibits related to Pioneer Courthouse Square

Portland (Or.). City Council

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Agreements") to Tri-Met made by the Urban Mass Transportation Administration (UMTA). Both Tri-Met and City acknowledge the outdoor recreation and mass transportation objectives that apply to uses on the Square.

4. Under an agreement between PDC and Tri-Met dated December 23, 1981, PDC provided the services of Designer in completing a study to assist Tri-Met in determining the feasibility of locating the Customer Assistance Office and related improvements on the lower level of the Square.

5. After reviewing the conclusions of the study, Tri-Met determined locating its Customer Assistance Office and related improvements on the Square is feasible and applied for a capital grant from UMTA to assist in paying the cost of making certain transit related improvements.

6. The City and Tri-Met have determined that the Customer Assistance Office and related improvements on the Square can be constructed in the most cost effective and timely manner by being constructed concurrently with other elements of the Square and that the City, through PDC, and Tri-Met, utilizing UMTA grant funds, should jointly participate in the project construction.

II. AGREEMENTS
A. Outdoor Recreation Requirements. In the Tri-Met use of the Square provided for herein, Tri-Met agrees to:

1. dispense information to the public about public mass transit access to City parks and other regional outdoor recreation facilities; and

2. not change the uses set forth in Article II.,C. of this agreement or assign its interest under this agreement to another party except with prior City approval which is subject to outdoor recreation requirements as interpreted by the Oregon Department of Transportation, Parks and Recreation Division, and National Park Service, U.S. Department of Interior.

B. Improvements.

1. The Project. The Project consists of designing and constructing the Square in accordance with the Plaza Level Plan and Lower Level Plan attached as Exhibit 'A', subject to minor design changes during construction. The City, except as provided for in Article I of this Agreement, through PDC, shall be responsible for constructing the Project and shall at all times operate and maintain the Project in the manner and according to the standards set forth in the Agreement dated July 11, 1975.
between the Department of Transportation, Highway Division, and Recreation Branch and the City of Portland (L&WCF Grant Agreement) and the terms and conditions of the UMTA Grant Agreements with Tri-Met. For the purposes of this Agreement, the project is divided into three parts which are:

a. Lower Level Improvements. The Lower Level Improvements consisting of finishes and other improvements on the Lower Level of the Square within the Tri-Met Customer Assistance Office, Lobby and Exit Corridor and Road Supervisor's Office as set forth in the Lower Level Floor Plan and Outline Specifications attached as Exhibit 'B'.

b. Lower Level Enclosure. The Lower Level Enclosure consisting of demolition, excavation, footings, walls, columns, beams, slabs, waterproof membrane, caulking, exterior doorways, public restrooms, storage, sidewalk elevator, mechanical air vents, mechanical and electrical systems and other improvements in addition to the Lower Level Improvements required to enclose and make the lower level functional for uses contemplated in this Agreement.

c. Balance of the Square. The Balance of the Square consisting of all other elements of the Square as set forth in Exhibit 'A' not classified as Lower Level Improvements or Lower
Level Enclosure in this paragraph including any bid alternates exercised at the time of award.

2. PDC. PDC, as the agent of the City, will carry out the City's responsibilities in designing and constructing the Project. PDC will contract with Designer to provide design services for the Project. PDC will competitively bid and award a Construction Contract to a single General Contractor (Contractor) for constructing the Project. PDC will provide staff and consultants to administer contracts for designing and constructing the Project.

3. Review. Construction Documents pertaining to the Lower Level Improvements and final estimates of the construction costs of the Project, Lower Level Improvements and Lower Level Enclosure as required for computing compensation in Article II.,E. will be subject to a formal review by and written authorization from Tri-Met prior to City issuing documents pertaining to the Lower Level Improvements for bids.

4. Changes in Work. Any changes in the portions of the Work or Construction Documents pertaining to the Lower Level Improvements made after Tri-Met approval required in Article II.,B.,3. shall be subject to prior written approval from Tri-Met. Tri-Met shall respond to all such changes within 5
working days of receipt. In addition, no approval may be unreasonably withheld or denied. Tri-Met will hold the City harmless for any damages or costs due to a contractor when Tri-Met fails to respond to a proposed change within the specified time or when it has been determined that Tri-Met unreasonably withheld or denied approval of a proposed change.

5. Project Representatives. Tri-Met and City shall each appoint a Project Representative authorized to act on behalf of their respective agencies. Project Representatives shall meet from time to time with other project participants to review and make decisions necessary to the timely completion of Construction Documents and the construction work. All communications between the two agencies on the subject of the Project shall be directed through the Project Representatives and shall be in writing or memorialized at a later time.

6. Access. City shall allow the Tri-Met Project Representative and other Tri-Met personnel directly associated with this Project access to the site to observe the work during construction. During these visits, Tri-Met shall not give instructions to the Contractor.

7. Substantial Completion. The date of Substantial Completion of the work is defined as the date when the work is
sufficiently complete in accordance with the contract Documents, so that the work or designated portion thereof can be occupied or utilized for the use for which it is intended. The date of Substantial Completion for the Lower Level Improvements shall be established in a Certificate of Substantial Completion approved and signed by representatives of PDC, Tri-Met, Contractor and Designer.

8. Schedule. Lower Level Improvements shall be Substantially Complete, ready for Tri-Met occupancy no later than January 31, 1984, subject to adjustments for unanticipated conditions during construction except as provided for in Article II., B., 9. and 10. In the event that the City, without reason, decided not to complete construction of the Project, all money paid by Tri-Met pursuant to the Agreement shall be refunded within (60) days of that decision.

9. Delays. For the purpose of the provisions of this Agreement, the City shall not be considered in breach of or in default of its obligations, or in any way liable, with respect to the City's responsibilities for completion of construction of the improvements, or progress in respect thereto, in the event of delays to the contractor, any subcontractor to the project without the City's fault or negligence, including, but not limited to, claims related to design which claims are attributable to actions by PDC, Designer or Tri-Met. In the event of the occurrence of any such delay, the time or times for performance of the obligations of the City shall be extended for
the period of such delay and for such additional time as may be required because of impact to the construction because of the delay.

10. Force Majeure. For the purpose of any of the provisions of this Agreement, the City shall not be considered in breach of or default in its obligations with respect to the completion of construction of the improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to to, acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of suppliers or subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City shall be extended for the period of the enforced delay and such additional time as may be required because of impact to the Project because of the delay.

C. Use. After Substantial Completion of the Lower Level Improvements, Tri-Met shall have the right to occupy and use
1. Customer Assistance Office. Tri-Met shall have the exclusive use of approximately 1,700 sq.ft. of net floor area within the Customer Assistance Office shown in Exhibit 'B' for the purpose of dispensing information to the public, selling transit tickets, passes and other revenue instruments, and providing space for lost and found, transit information computer and related office activities.

2. Lobby and Exit Corridor. Tri-Met shall have the primary right to use the approximately 300 sq.ft. within the Lobby adjacent to the Customer Assistance Office shown in Exhibit 'B' for permanent and temporary displays and mechanical vending devices related to functions within the Customer Assistance Office. Tri-Met will also have the right to periodically erect temporary displays within the Lobby. Tri-Met and its patrons shall have the right to use the Lobby and Exit Corridor for access to and egress from the Customer Assistance
Office and Road Supervisor's Office. The City shall maintain the primary exterior entrance to the Lobby for handicapped accessibility during all normal business hours. Tri-Met temporary or permanent improvements, displays, devices or other uses within the Lobby and Exit Corridor shall be subject to design approval procedures, use schedules and other regulations to be established by the City with Tri-Met's participation.

3. Road Supervisor's Office. Tri-Met shall have the exclusive use of approximately 220 sq. ft. of net floor area for a Road Supervisor's Office shown in Exhibit 'B' for use by Tri-Met road supervisors and security personnel.

4. Sign. Tri-Met, at its own expense, will have the right to place an identifying sign on the plaza level of the Square. Tri-Met's signs outside the Customer Assistance Office shall be subject to City approval with regard to text, design, structure and location for consistency with federal, state and local requirements.

5. Sidewalk Elevator. Tri-Met will have the right to use the sidewalk freight elevator for receiving supplies and equipment required in the uses allowed in this Agreement.
d. Term. Tri-Met will have the right to the areas in Article II.,C. of this Agreement without cost excepting the costs set forth in Articles II.,E. and II.,G.,1. for a period of 40 years beginning on the date of Substantial Completion of the Lower Level Improvements subject to termination provided for in Article II.,I. The City shall give first right of refusal to Tri-Met to renew its use agreement for the areas described in Article II.,C. at the end of the 40-year period under terms to be negotiated at that time.

E. Compensation.

1. In consideration of the improvements made by the City described in Article II.,B.,1. and the use allowed by the City under Article II.,C., Tri-Met shall pay the City an amount equal to a prorated share of the cost of constructing the Lower Level Enclosure and the full cost of constructing the Lower Level Improvements as set forth in this Article.

2. Definitions. The following terms will be used in computing payments provided for in this Article:

a. Estimated Project Cost. The Estimated Project Cost shall equal the sum of cost estimate line items reviewed and approved in advance of bidding as provided for in Article
II., B., 2. for constructing the Project including the Lower Level Enclosure, the Lower Level Improvements and the Balance of the Square.

b. Bid Project Cost. The Bid Project Cost shall equal the Lump Sum bid amount submitted by the successful bidder for the Project including the Lower Level Enclosure, the Lower Level Improvements and the Balance of the Square.

c. Estimated Improvement Costs. The Estimated Improvement Costs shall be the sum of:

1) the estimated cost of the Lower Level Improvements; and

2) an amount bearing the same proportion to the estimated cost of constructing the Lower Level Enclosure as the floor area used by Tri-Met (2220 square feet) bears to the total lower level commercial floor area (6280 square feet), or 35.4% of the estimated cost of constructing the Lower Level Enclosure.

3. Payment. The Estimated Project Cost and the estimated cost of constructing the Lower Level Enclosure and the Lower Level Improvements shall be the basis for computing Tri-Met's payment to the City. The Payment shall be an amount bearing the same proportion to the Bid Project Cost as the Estimated
Improvement Cost bears to the Estimated Project Cost, estimated to be 12.9% of the Bid Project Cost as set forth in Exhibit 'C'.

P. Payment Schedule. Tri-Met shall make the payments to the City as required in Article II., E. as follows:

1. PDC Monthly Draw Down. Tri-Met shall, within ten days of PDC awarding a contract for the Project, establish a separate account in the state's Local Government Investments Pool that can be drawn on by an authorized representative from PDC having limited Power of Attorney for Tri-Met's percent of the Project's actual cost during the month. Tri-Met shall maintain funds sufficient to cover the estimated anticipated cost to be drawn on each month by PDC. Expenditures exceeding $50,000 will be submitted to Tri-Met on an individual basis.

2. Detailed Invoices. PDC is required to submit detailed monthly invoices to Tri-Met specifically describing the work accomplished. In the event that a payment is not supported by the detailed invoice, Tri-Met shall be given a credit on a subsequent month's draw down/payment.

G. Utility and Maintenance Costs
1. City. City shall provide management and pay for utilities and maintenance of the lower level. The City may assign this responsibility to a Non-Profit Corporation.

2. Tri-Met. Tri-Met shall pay the City for the City's cost for utilities and maintenance as follows:

   a. Electrical. 32.8% of monthly electrical energy costs for heating, ventilating and air conditioning, lighting and other purposes in the Lobby and Exit Corridor and public restrooms. Tri-Met shall be responsible for the full cost of electrical energy within the Customer Assistance Office and Road Supervisor's Office and electrical energy costs for Tri-Met permanent and temporary displays and mechanical vending devices in the Lobby, such costs payable directly to serving utility company.

   b. Water and Sewer. 20% of the monthly cost of overall Square water and sewer charges.

   c. Cleaning and Maintenance. 32.8% of the annual cost for cleaning and maintaining lower level Lobby and Exit Corridor and public restrooms. Tri-Met shall be responsible for and pay the full cost of cleaning and maintenance within the Customer Assistance Office and Road Supervisor's Office and required for
directly to the party performing cleaning and maintenance for Tri-Met.

d. Insurance. Tri-Met shall provide its own Personal Project, Fire and Injury insurance for those areas it uses under this Agreement, as provided for in Article II.,C. Tri-Met shall provide said insurance policy upon Substantial Completion of its space under term and in an amount specified in Article K.

3. Payments.

a. Initial Payment. During the initial year of use, Tri-Met shall pay the City the sum of $165 per month for utilities and maintenance provided by the City under Article II.,G.,2.

b. Adjustments. At end of the first anniversary of Substantial Completion of the Lower Level Improvements and each anniversary thereafter, the monthly payment will be adjusted based on any projected increase or decrease in the cost to the City for utilities and maintenance provided by the City under Article II.,G.,2. and any credit or deficit remaining from the previous year.
H. UMTA Approval. This Agreement is effective on the date when written notification is received from UMTA approving an UMTA capitol grant to fund 80% of Tri-Met's obligations under Article II.,E., provided that such notification is received prior to September 3, 1982.

I. Termination

1. City may terminate this Agreement with no expense or liability prior to issuing the Notice to Proceed to the Contractor if adequate funds are not available for constructing the Project.

2. City may terminate this Agreement at any point after completion if required to do so by the National Park Service or Oregon Department of Transportation, Parks and Recreation Branch, under conditions of the L&WCF Grant Agreement. Upon termination, City shall provide Tri-Met thirty (30) days notice of such action. Tri-Met shall terminate the uses set forth in this Agreement and vacate the premises within sixty (60) days of receiving notice of such action. Within thirty (30) days of Tri-Met's termination of use and vacation, the City shall pay Tri-Met the sum of:
a) the fair market value of Tri-Met's improvements as
described in Articles II.,B.,1.,a. and Exhibit 'B', and Tri-Met's
proportion of those improvements described in Article II.B.,1.,b.
and as actually paid for pursuant to Article II.,E.,2.,c.,2) at the
date of termination. Fair market value to be determined by an
independent appraisal. Instructions to the appraiser shall be
consistent with Tri-Met obligations to UMTA under OMB Circular
A102, Attachment N. Both the selection of and instructions to
the appraiser shall be mutually agreed upon by the City and Tri-Met,
and

b) the actual cost of moving personal property to another
location within the City of Portland.

3. The City may terminate this Agreement at any point after
completion by providing sixty (60) days written notice to Tri-Met
and UMTA of such action in the event that Tri-Met fails to make
payments, fails to obtain City approval prior to any use change,
insolvency, abandonment or other defaults under this Agreement.
Upon receipt of notice of termination, Tri-Met and/or UMTA shall
have 20 days to cure any default. City agrees to keep Tri-Met
improvements in mass transportation purposes so long as all defaults
are remedied and an equitable agreement can be reached with the
provider of mass transportation services in the City. In the event
an equitable agreement cannot be reached, neither party shall
have any further liability to the other under this Agreement,
4. Tri-Met may terminate this Agreement at any time with completion of payments required in Article II.,E. In the event of such termination, neither party shall have any further liability to the other under this Agreement. Tri-Met will provide the City with sixty (60) days notice of such action.

J. Compliance with Law.

1. The parties hereto agree and understand that they will comply with all applicable federal and state statutes and regulations, including, but not limited to: Title VI, Q., S., C. Civil Rights Act; Title XVIII, U. S. C., Anti-Kickback Act; and Office of Management & Budget Circular A-102, Department of Transportation regulations and any applicable municipal codes.

2. City shall have the responsibility of providing any relocation assistance and any such relocation shall be accomplished pursuant to Titles II and III of the Uniform Relocation Assistance and Real Property Policies Act of 1970.

3. The parties agree that the successful bidder shall be determined by the City in accordance with state law and Attachment O to Office of Management & Budget Circular A-102.

K. Liability.
1. PDC. PDC shall be liable, hold the City and Tri-Met harmless for and defend the City and Tri-Met from claims or suits for all injuries to persons and property and for resulting claims, liability, money paid in settlement, losses, costs, attorneys' fees and other expenses, arising out of construction of the Square or related to any other obligation of PDC relating to the Square including the Customer Assistance Office Improvements specified in Exhibit 'A'. PDC shall maintain public liability and property damage insurance to protect the City and Tri-Met, its Commissioners, Officers, Agents, and Employees from claims for damage to property or personal injury, including death, which may arise out of the design or construction of the Square. Such insurance shall provide coverage in sums of not less than $300,000 for personal injury to each person and not less than $300,000 for each occurrence. Insurance for architectural, engineering and design liability in a sum of not less than $300,000 to the extent of PDC negligence can be provided by PDC on a "claims made" basis (in lieu of an occurrence basis). Any insurance provided shall be without prejudice to coverage otherwise existing, and shall name, as additional insureds, the City and Tri-Met, its Commissioners, Officers, Employees or Agents and shall further include a completed operations protection clause extending three (3) years after all PDC's connection to the Square has been terminated.
Therefore, prior to termination or cancellation, notice in writing must first be given to the Auditor of the City of Portland. Such insurance shall be subject to approval by the City Attorney on behalf of the City as to the adequacy of the protection, and proof of such insurance shall be provided to the City prior to the City signing this Agreement.

2. City. City shall be liable for injuries to persons or property arising out of its obligations under this Agreement. Except as provided below, City shall hold Tri-Met harmless, in sums of no more than the City's maximum liability under the Tort Claims Act.

3. Tri-Met. Tri-Met shall be liable, hold the City harmless for any defend the City from claims or suits for injuries to persons and property and for resulting claims, liability, money paid in settlement, losses, costs, attorneys' fees and other expenses, specifically resulting from Tri-Met's use of the Square or some other action or failure to act by Tri-Met or one of its employees or agents and for any costs due to the contractor because Tri-Met has failed to carry out any of its responsibilities under this Agreement.

Tri-Met shall maintain public liability and property damage insurance to protect the City, its Commissioners, Officers,
Agents, and Employees from claims for damage to property or personal injury, including death, which may arise out of Tri-Met's specific use of the Square or resulting from any act or failure to act by Tri-Met or its employees or agents in relationship to any portion of the Square. Such insurance shall provide coverage in sums of not less than the amounts of maximum City liability under State of Oregon statutes, but in no event less than $300,000 for personal injury to each person, $300,000 for each occurrence. Such insurance shall be without prejudice to coverage otherwise existing, and shall name, as additional insureds, the City, its Commissioners, Officers, Employees or Agents. Thereafter, prior to termination, notice in writing must first be given to the Auditor of the City of Portland. Such insurance shall be subject to approval by the City Attorney on behalf of the City as to the adequacy of the protection. Proof of such insurance shall be provided to the City prior to the City signing this Agreement.

L. Interest of Members of Congress. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

M. Interest of Public Officials. No member, officer, or employee of Tri-Met or City during his/her tenure or for one year
thereafter shall have any financial interest direct or indirect, in this Agreement or the proceeds thereof.

N. Minority and Female Business Enterprise. In connection with the performance of this Agreement, the parties will cooperate with each other in meeting their commitments and goals with regard to the maximum utilization of minority and female business enterprises and will use its best efforts to ensure that minority and female business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. A ten percent (10%) minority and one percent (1%) female business enterprise requirement shall be included in the bid and construction documents for building the Square. For purposes of this Agreement, the guidelines of City of Portland Ordinance No. 149959 will be followed and the requirements of 49 CFR 23 will be satisfied.

O. Equal Employment Opportunity. In connection with the execution of this Agreement, City and Tri-Met shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. Tri-Met and City shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, religion, color, sex, age, or national origin. Such actions shall include, but
not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

P. Audit and Inspection of Records. The parties shall permit the authorized representatives of City, Tri-Met, the United States Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of City and Tri-Met relating to their performance under the Agreement.

Q. Documents. All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs, or models which are prepared or developed in connection with this project shall become public property. All design drawings and documents prepared by City staff under this contract shall be available to Tri-Met.

R. Title VI Assurance. Tri-Met and City shall comply with all provisions of the attached Exhibit F, Title VI Assurance, which shall be hereby incorporated within this Agreement.
S. Federal Funding Limitation. City understands that funds to pay for services under this Agreement will be made available from the United States Department of Transportation through the Urban Mass Transportation Administration (UMTA). If this Agreement is disapproved by UMTA, Tri-Met is not liable for payment and may suspend this Agreement, without penalty, until such time as this Agreement is approved. Tri-Met shall notify City promptly in writing of the nonallocation, delay or disapproval of funding.

T. Notice. All Notices provided for hereunder shall be in writing and sufficient if deposited in the United States Mail, postage prepaid, and if to City addressed to City Auditor, City of Portland, 1220 S. W. Fifth Avenue, Portland, Oregon 97204; and if to Tri-Met addressed to Tri-County Metropolitan Transportation District of Oregon, 4012 S. E. 17th Avenue, Portland, Oregon 97202.

U. Assignment to Another Public Agency. Notwithstanding any other provision contained in the Agreement, if any public body acquires or succeeds Tri-Met during the term of this Agreement, Tri-Met's interests, rights, and obligations created by this Agreement shall be assignable by Tri-Met or UMTA to the public body that acquires or succeeds Tri-Met.
V. Entire Agreement. This Agreement constitutes the entire, complete, and final expression of the agreement of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first herein written.

Approved as to form:

CITY OF PORTLAND

By Margaret A. Sorean
ACTION Mayor

By Charles Johnson
Commissioner of Public Safety

Approved as to form:

TRI-MET

By J. E. Bowen, General Manager

Approved as to form:

PDC

By William E. Roberts, Chairman

City Attorney

Contracts and Legal Services

PDC Attorney
## LOWER LEVEL OUTLINE SPECIFICATIONS

<table>
<thead>
<tr>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ceiling in Teller Area</td>
<td>Coffers with wood trim over insulation in recesses and sandblasted concrete on lower face of exposed beams.</td>
</tr>
<tr>
<td>Ceiling:</td>
<td>Dropped wood or acoustic tile ceiling with insulation above in Areas 2-9. Exposed concrete in Road Supervisor's office.</td>
</tr>
<tr>
<td>Walls:</td>
<td>Metal stud partitions with Gypsum board wall finishes on both sides.</td>
</tr>
<tr>
<td>Floors:</td>
<td>Carpeting except VAT in Toilet, Computer, Storage and Road Supervisor's Office and brick pavers equivalent to material and pattern used on Square in Area B.</td>
</tr>
<tr>
<td>Bases:</td>
<td>Rubber bases at carpet and VAT floors and quarry tile at brick paver floors.</td>
</tr>
<tr>
<td>Plumbing:</td>
<td>Rough-in and finish plumbing for toilet.</td>
</tr>
<tr>
<td>Lobby Skylights:</td>
<td>Glass block.</td>
</tr>
<tr>
<td>Teller Roll-up Door:</td>
<td>Roll-up door at Information Counter with glass filler above to coffered ceiling.</td>
</tr>
<tr>
<td>Electrical:</td>
<td>Meters and service conduits from Square electrical room, main and branch circuit panels, conduit, wiring, lighting fixtures, outlets, HVAC connections, electrical equipment and finishes. Electrical in Area A and Area C will be metered separately from Area B.</td>
</tr>
<tr>
<td>Fire Sprinklers:</td>
<td>Complete system for Areas A, B and C as required by code.</td>
</tr>
</tbody>
</table>
Heating, Air Conditioning and Cooling (HVAC):

Two electric air handling units and individually metered water cooled condensers; one for Area A and Area C and another for Area B. Equipment will be connected to a common outside air plenum and central cooling unit. System will be installed and connected to common outside and return air plenum and complete with supply and return air ducts, controls, grilles and other related appurtenances.
## PAYMENT COMPUTATION

<table>
<thead>
<tr>
<th>General Contract Work</th>
<th>Total</th>
<th>Tri-Met Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Lower Level Improvements</td>
<td>298,400</td>
<td>$298,400</td>
</tr>
<tr>
<td>b. Lower Level Enclosure</td>
<td>629,720</td>
<td>222,600</td>
</tr>
<tr>
<td>c. Balance of Square</td>
<td>$3,124,223</td>
<td>-0-</td>
</tr>
</tbody>
</table>

| Estimated Project Cost                 | $4,052,343|              |

Total                                                      $521,000

Percentage of the Bid Project Cost                        12.9%
An Ordinance authorizing an Agreement between the City of Portland, the City of Portland Development Commission and the Tri-County Metropolitan Transit District of Oregon (Tri-Met) providing for the funding, construction and use of Light Rail Improvements in and adjacent to Block 179, and declaring an emergency.

The City of Portland Ordains:

Section 1. The Council finds:

1. By Ordinance No. 31971, adopted October 12, 1977, the Council directed the Portland Development Commission to oversee the design and construction of the Pioneer Courthouse Square on Block 179.

2. By Resolution 32851, adopted January 19, 1981, the Council directed the Portland Development Commission to work with Tri-Met to construct light rail in conjunction with Pioneer Courthouse Square.

3. By Resolution 32983, adopted August 12, 1981, the Council directed the Portland Development Commission to negotiate with Tri-Met for paying construction costs for light rail improvements that will be required on the adjoining sections of Morrison and Yamhill Streets, which improvements included sidewalk widening, transformer vault and glass canopy.

4. By Ordinance 153358, adopted June 9, 1982, the Council directed the Portland Development Commission to prepare for Council consideration agreements with Tri-Met and/or UMTA whereby they pay for their proportionate share of costs attributable to accommodating the Light Rail System.

5. Tri-Met is willing to construct said improvements subject to receiving final Urban Mass Transit Authority (UMTA) approval of grants for these activities.

6. The City of Portland, Portland Development Commission and Tri-Met have determined that light rail work in and adjacent to the Square can be constructed in the most cost effective and timely manner by being constructed concurrently with other elements of the Square and that the City and Tri-Met should jointly participate in construction of the improvements described in the attached Agreement marked Exhibit "A".

Page No. 1

EXHIBIT "C"
NOW, THEREFORE, the Council directs:

a. The Commissioner of Public Safety and the Mayor are hereby authorized to enter into an agreement with the Portland Development Commission and the Tri-County Metropolitan Transit District of Oregon substantially in accordance with the Agreement marked Exhibit "A".

Section 2. So that the Agreement maybe put into effect without delay, the Council declares that an emergency exists; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, SEP 1 1982

Mayor Frank Ivancie
August 25, 1982
Chris Kopca:bw

Attest:

[Signature]
Auditor of the City of Portland
Enclosed is a fully executed copy of agreement for providing for the funding, construction and use of Light Rail Improvements in and adjacent to Block 179, as authorized by Ordinance No. 153717.

Very truly yours,

Auditor of the city of Portland
This Agreement made this 10th day of September, 1982 by and between the City of Portland (City), the Portland Development Commission (PDC) and the Tri-County Metropolitan Transportation District of Oregon (Tri-Met).

I. RECITALS

1. The City of Portland owns the property in the City of Portland, County of Multnomah, State of Oregon, described as Block 179, Portland and, by and through the Portland Development Commission (PDC), plans to develop Pioneer Courthouse Square on the property (Square).

2. PDC has retained Martin, Soderstrom and Matteson (Designer) to provide architectural/engineering services for the Project.

3. The City and Tri-Met have determined that Light Rail Work in and adjacent to the Square can be constructed in the most cost effective and timely manner by being constructed concurrently with other elements of the Square and that the City
Improvements described in attached Exhibit 'A' (Project).

4. Review. Final Design Plans, Specifications and Construction Documents pertaining to the Project shall be subject to a formal review by and written approval from Tri-Met prior to City issuing documents pertaining to the Project for bids. Tri-Met may reject any part of the plans, specifications and documents. Final Design Plans attached to the original bid documents have already been approved by Tri-Met and are incorporated herein by reference and made a part of this Agreement as though fully set forth herein.

II. AGREEMENTS

1. General Responsibility. The City, through PDC, will carry out the City's responsibility to design and construct the Project and obtain all City permits, Council ordinances and approval required for the Project. PDC will contract with Designer to provide design services for the Project. PDC will competitively bid and award a Construction Contract to a single General Contractor (Contractor) for constructing the Project. The Construction Contract shall contain all terms and conditions for third party contracts as required by the UMTA Third-Party Contracting Guidelines. PDC will provide staff and consultants
to administer contracts for designing and constructing the
Project. In consideration for the Light Rail Work completed by
the City and for the right to continued use of the Project,
Tri-Met agrees to provide funds to the City for a portion of the
Project, as set forth in Section 11, "Compensation".

2. Changes in Work. Any changes in the Construction
Documents or the Project subsequent to the Tri-Met authorization
required above shall be subject to prior written approval from
Tri-Met. Tri-Met shall respond to all such changes within 5
working days of receipt. Changes or modifications directed by
Tri-Met shall be made by Designer at Tri-Met's expense. In
addition, no approval shall be unreasonably withheld or denied.
Tri-Met will hold the City harmless for any damages or costs or
time due to a contractor when Tri-Met fails to respond to a
proposed change within the specified time or when it has been
determined that Tri-Met unreasonably withheld or denied approval
of a proposed change. Delays to the project, resulting from
Tri-Met's exercise of its rights hereunder shall be cause for an
extension of time of completion of the project as set forth in
Sections 8 and 9 herein below.

3. Project Representatives. Tri-Met and City shall each
appoint a Project Representative authorized to act on behalf of
their respective agencies. Project Representatives shall meet
make decisions necessary to the timely completion of Construction Documents and the construction work. All communications between the two agencies on the subject of the Project shall be directed through the Project Representatives and shall be in writing or memorialized at a later time.

4. Access. City shall permit the Tri-Met Representative and any other Tri-Met personnel directly associated with this Project access to the Project site to observe and inspect the work during construction. During these visits, Tri-Met shall not give instructions to the Contractor.

5. Schedule. Time is of the essence in this contract. The Project shall achieve Final Completion, ready for Tri-Met use no later than January 31, 1984, except as provided for in Article II., Sections 6 and 7. If, through not fault of the City, or Tri-Met, the Project is not completed at that time, Tri-Met shall receive a prorated share of liquidated damages due the City through PDC's contract with the contractor. In the event that the City, without reason, decides not to complete construction of the Project, all money paid by Tri-Met pursuant to this Agreement shall be refunded within sixty (60) days of that decision.
6. Delays. For the purpose of the provisions of this Agreement, the City shall not be considered in breach of or in default of its obligations, or in any way be liable, with respect to the City's responsibilities for completion of construction of the improvements, or progress in respect thereto, in the event of delays to the contractor, any subcontractor to the project without the City's fault or negligence, including, but not limited to, claims related to design which claims are attributable to actions by PDC, Designer or Tri-Met. In the event of occurrence of any such delay, the time or times for performance of the obligations of the City shall be extended for the period of such delay and for such additional time as may be required because of impact to the construction because of the delay.

7. Force Majeure. For the purpose of any of the provisions of this Agreement, the City shall not be considered in breach of or default in its obligations with respect to the completion of construction of the improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe
weather or delays of suppliers or subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City shall be extended for the period of the enforced delay and to such additional time as may be required because of impact to the Project because of the delay.

8. Final Completion. Upon receipt of City's notice that the Project is ready for final inspection and acceptance and upon receipt of a final invoice, Tri-Met will make inspection, and when Tri-Met finds the work acceptable under this Agreement, Tri-Met will make final payment to PDC and forward PDC a written letter accepting the Project. The date of this letter shall be the Date of Final Completion and the date when any Tri-Met responsibility for maintenance and Tri-Met's right to use the Light Rail Improvements shall commence.

9. Use. City will grant to Tri-Met, through other agreements, full access to and use of the Project as long as a light rail system or alternate mass transportation use (requiring said improvements) exists.

10. Maintenance. City shall be responsible for maintenance of the Project, excluding the Transformer Room and other LRT equipment, which shall be the responsibility of Tri-Met. The
City will be responsible for maintenance of the Park.

Tri-Met will contribute to the cost of maintenance of the Project an amount equal to the average cost of maintaining a Light Rail Shelter in downtown Portland. Tri-Met will make this payment annually on the first anniversary of Final Completion and each anniversary thereafter.

11. Compensation. In consideration of the Work completed by the City and the use allowed by the City, Tri-Met shall pay the City the actual contract cost of the Project as established by a detailed Cost Breakdown prepared by the Contractor up to the following maximum amounts for each category of Light Rail Work:

<table>
<thead>
<tr>
<th>Category</th>
<th>Maximum Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sidewalk Improvements</td>
<td>$250,000.00</td>
</tr>
<tr>
<td>LRT Canopy</td>
<td>70,000.00</td>
</tr>
<tr>
<td>Transformer Room</td>
<td>$63,403.00</td>
</tr>
</tbody>
</table>

The maximum amounts above shall be Tri-Met's total contribution to the Project and shall be full compensation for all services under this Agreement. The City shall pay the balance of the contract costs and all costs of the Project.
exceeding the maximum amounts above. City will require a successful bidder to deliver a detailed cost breakdown for each of the three categories of the Light Rail Work which shall be the basis for establishing compensation in this Article. The breakdown shall be a complete itemization with detail. The City will deliver the breakdown to Tri-Met within 30 days of Awarding the General Contract for the Project and prior to submitting invoices for compensation provided for in this Agreement.

12. Design Costs. In addition to the compensation set forth in Article 10, Tri-Met shall pay the City a maximum of $5,000 for architectural and engineering expenses incurred by the City in designing the Project.

13. Payment. Tri-Met shall make payment to the City required in Article 10 as follows:

Tri-Met shall, within 10 days of the award of the contract for the Project, establish a separate account in the State's Local Government Investments Pool that can be drawn on by an authorized representative from PDC as an agent of the City having limited Power of Attorney. Monthly payments shall be in an amount equal to the estimated value of the work completed during the month. Tri-Met shall maintain funds sufficient to cover the estimated anticipated cost to be drawn on each month by PDC.
Expenditures exceeding $50,000 will be submitted on an individual basis.

Detailed Invoices. PDC is required to submit detailed monthly invoices to Tri-Met's Finance Department specifically describing the work accomplished. In the event that a payment is not supported by the detailed invoice, Tri-Met shall be given a credit on a subsequent month's draw down/payment.

14. UMTA Approval. This Agreement is effective on the date written notification is received from UMTA approving this Agreement provided that such notification is received prior to Sept. 3, 1982. If UMTA approval is not received on time, this Agreement will be of no affect.

15. Compliance with Law. The parties hereto agree and understand that they will comply with all applicable federal and state statutes and regulations, including, but not limited to: Title VI, Civil Rights Act; Title XVIII, Anti-Kickback Act; Department of Transportation requirements; Office of Management & Budget Circular A-102 and A-87; and UMTA's Grant Agreement with Tri-Met, as well as all applicable municipal codes. The successful bidder shall be determined by PDC in compliance with state and local laws and OMB Circular A-102, Attachment 0.
16. Relocation Assistance. City shall have the responsibility of providing any relocation assistance and any such relocation shall be accomplished pursuant to Titles II and III of the Uniform Relocation Assistance and Real Property Policies Act of 1970.

17. Liability. PDC shall be liable, hold the City and Tri-Met harmless for and defend the City and Tri-Met from claims or suits for all injuries to persons and property and for resulting claims, liability, money paid in settlement, losses, costs, attorneys' fees and other expenses, arising out of construction of the Project or related to any other obligation of PDC relating to the Project, including related Light Rail Improvements specified in Exhibit 'A'. PDC shall maintain public liability and property damage insurance to protect the City and Tri-Met, its Commissioners, Officers, Agents, and Employees from claims for damage to property or personal injury, including death, which may arise out of the design or construction of the Project. Such insurance shall provide coverage in sums of not less than $300,000 for personal injury to each person and not less than $300,000 for each occurrence. Insurance for architectural, engineering and design liability in a sum of not less than $300,000 to the extent of PDC negligence can be provided on a "claims made" basis (in lieu of an occurrence
of its employees or agents and for any costs due the contractor because Tri-Met has failed to carry out any of its responsibilities under this Agreement.

Tri-Met shall maintain public liability and property damage insurance to protect the City, its Commissioners, Officers, Agents, and Employees from claims for damage to property or personal injury, including death, which may arise out of Tri-Met's specific use of the Project or resulting from any act or failure to act by Tri-Met or its employees or agents in relationship to any portion of the Project. Such insurance shall provide coverage in sums of not less than the amounts of maximum City liability under State of Oregon statutes, but in no event less than $300,000 for personal injury to each person, $300,000 for each occurrence and shall be in effect through the time frame specified in Article II., Section 9. Such insurance shall be without prejudice to coverage otherwise existing, and shall name, as additional insureds, the City, its Commissioners, Officers, Employees or Agents and shall further include a completed operations protection clause extending three (3) years after Tri-Met terminates any or all uses set forth in Exhibit 'A' to this Agreement within the Project. Such insurance shall be subject to approval by the City Attorney on behalf of the City as to the adequacy of the protection. Proof of such insurance shall be provided to the City prior to the City signing this Agreement.
Any insurance provided shall be without prejudice to any coverage otherwise existing, and shall name, as additional insureds, the City and Tri-Met, its Commissioners, Officers, Employees or Agents and shall further include a completed operations protection clause extending three (3) years after all PDC's connection to the Project has been terminated. Therefore, prior to termination or cancellation, notice in writing must first be given to the Auditor of the City of Portland. Such insurance shall be subject to approval by the City Attorney on behalf of the City as to the adequacy of the protection, and proof of such insurance shall be provided to the City prior to the City signing this Agreement.

City. City shall be liable for injuries to persons or property arising out of its obligations under this Agreement. Except as provided below, City shall hold Tri-Met harmless, in sums of no more than the City's maximum liability under the Tort Claims Act.

Tri-Met. Tri-Met shall be liable, hold the City harmless for an and defend the City from claims or suits for injuries to persons and property and for resulting claims, liability, money paid in settlement, losses, costs, attorneys' fees and other expenses, specifically resulting from Tri-Met's use of the Project, or some other action or failure to act by Tri-Met or one
18. Interest of Members of Congress. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

19. Interest of Public Officials. No member, officer, or employee of Tri-Met or City during his/her tenure or for one year thereafter shall have any financial interest direct or indirect, in this Agreement or the proceeds thereof.

20. Minority and Female Business Enterprise. In connection with the performance of this Agreement, the parties will cooperate with each other in meeting their commitments and goals with regard to the maximum utilization of minority and female business enterprises and will use its best efforts to ensure that minority and female business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this Agreement. A ten percent (10%) minority and one percent (1%) female business enterprise requirement shall be included in the bid and construction documents for building the Project. For purposes of this Agreement, the guidelines of City of Portland Ordinance No. 149959 will be followed.
21. Equal Employment Opportunity. In connection with the execution of this Agreement, City and Tri-Met shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. Tri-Met and City shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, religion, color, sex, age, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

22. Audit and Inspection of Records. The parties shall permit the authorized representatives of City, Tri-Met, the United States Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of City and Tri-Met relating to their performance under the Agreement.

23. Documents. All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs, or models which are prepared or developed in connection with the design and construction of the Project shall become
24. **Title VI Assurance.** Tri-Met and City shall comply with all provisions of the attached Exhibit F, Title VI Assurance, which shall be hereby incorporated within this Agreement.

25. **Federal Funding Limitation.** City understands that funds to pay for services under this Agreement will be made available from the United States Department of Transportation through the Urban Mass Transportation Administration (UMTA) and in accordance with UMTA Grant Agreement with Tri-Met. If this Agreement is disapproved by UMTA Tri-Met is not liable for payment and may suspend this Agreement, without penalty, until such time as this Agreement is approved. Tri-Met shall notify City promptly in writing of the nonallocation, delay, or disapproval of funding.

26. **Notice.** All Notices provided for hereunder shall be in writing and sufficient if deposited in the United States Mail, postage prepaid, and if to City addressed to City Auditor, City of Portland, 1220 S. W. Fifth Avenue, Portland, Oregon 97204; and if to Tri-Met addressed to Tri-County Metropolitan Transportation District of Oregon, 4012 S. E. 17th Avenue, Portland, Oregon 97202.
27. Entire Agreement. This Agreement constitutes the entire, complete, and final expression of the agreement of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first herein written.

Approved as to form:

CITY OF PORTLAND

By

Margaret A. Shoelten
Acting Mayor

By

Commissioner of Public Safety

CITY OF PORTLAND

By

City Attorney

Brian Playfair
Contracts and Legal Services

Tri-Met

By

J. E. Cowen, General Manager

Approved as to form:

Approved as to form:

Approved as to form:

PDC

By

William E. Roberts, Chairman
Light Rail Improvements. The Light Rail Improvements shall include the following work:

1. Sidewalks.

   a. 19'-6" wide sidewalk reconstructed on Yamhill and Morrison between Broadway and Sixth including reconstruction of a portion of the sidewalk on Sixth.

   b. Conduit system for future wiring from the handicapped lift, telephone booth and ticket/information kiosk locations on Yamhill and on Morrison to the Tri-Met LRT electrical panel in the Square's Lower Level electrical room.

   c. Two ornamental street lighting fixtures on temporary poles at future strain pole locations on Yamhill and on Morrison.

   d. Foundations for three strain poles on Yamhill and on Morrison.

   e. Temporary traffic signals, wiring and poles.
f. Conduit from each center block traffic pole to a Tri-Met Transformer Room for a future warning light on Yamhill and on Morrison.

g. 2" conduit from each center strain pole stubbed out 12" beyond curb line on Yamhill and on Morrison.

h. Conduit for future signal wire from handicapped lift location to future controller location on Yamhill and on Morrison.

i. Tri-Met LRT electrical panel consisting of a blank 200 amp main panel, disconnect switch and fuse and meter base for platform electrical items located in the Square Lower Level electrical room.

2. Transformer Room.

a. Repairs and improvements within the existing basement extension on Yamhill for a Transformer Room including:

1) Demolition of existing traffic signal foundation.
outside of curb and capped, for future Transformer Room ventilation.

3) Demolition of existing wood in east portion and new concrete floor.

4) Removable 10' x 10' lift out panel in the Yamhill sidewalk.

5) Manhole and ladder exit in Yamhill sidewalk.

6) Concrete block enclosure wall with metal door and frame.

7) Concrete stairway and handrails at entrance to Transformer Room.

8) Floor drain.

9) Floor grounding mat.

10) Repairs to the vault roof structure.

11) Waterproof membrane on roof structure.
c. 12-3", 2-1" and 1-4" concrete encased conduits from west wall of Transformer Room to manhole.

3. LRT Canopy. Approximately 2600 square feet canopy structurally supported by columns for waiting LRT patrons including lighting and related electrical work.
The Square is a public facility and use of it should be for the benefit of the citizens of the City and should include a variety of events and usage taking into consideration the physical characteristics of the Square, the nature of the area, the appropriateness of the usage and other factors such as sound, nature and size of crowd, weather and similar considerations.

Usage shall conform to provisions of the Heritage Conservation Recreation Service grant.

The Square will be operated, programmed and have leases let in a manner that promotes an image of quality and safety.

Activities, performances and events on the Square will be regulated by permit, administered by Pioneer Courthouse Square of Portland, Inc. The policies which ensure that these permits are administered in a manner consistent with constitutional freedom of speech as well as the location and quality image of the Square will be drafted by a Board appointed committee, approved by the City Council and appended to these policies prior to the opening of the Square.

Leasing Guidelines

All leases shall be approved by the Board of Pioneer Courthouse Square of Portland, Inc. Such approval is contingent upon proposed leases conforming with Square Policies.

Potential leases will be evaluated both for serving the public interest and producing revenue for the Square.

Signage of commercial uses on the Square will be subject to
compatibility with Square architecture.

Leases of kiosks shall be for one year, subject to review by both parties. Leases for underground space shall be for a maximum of 5 years, with a renewal option of 5 years.

Leases will contain provisions clearly spelling out leasee's responsibilities for maintenance, janitorial service, security, hours of operation, and contribution to the image of the Square.

Programming Guidelines

The goals of programming include: attracting new people downtown; enriching the environment of those already downtown; providing an attractive stage for the performing arts, civic and cultural organizations; promoting exhibit opportunities for commercial, civic and advocacy organizations; and supplying a forum for political and civic speeches.

Generalized programming themes will be developed consistent with season, major civic, sporting and cultural events and the image of the Square. Performances and activities consistent with or supplementary to these themes will be scheduled.

Scheduling may occur up to 12 months in advance to assure quality and consistency with plans. Multiple activities/programs will be scheduled when feasible to maximize diversity and attraction.

Every effort will be made to work with neighborhood, school, civic and cultural organizations to ensure community input to programming.

Efforts will be made to emphasize programming during the noon hour, early and mid-evening hours.
normal publicity channels, including all media. Pioneer Courthouse Square will develop a mailing list to augment media efforts.