

RESOLUTION NO. 2726

BE IT RESOLVED BY THE ALBANY CITY COUNCIL that it accepts the Operating Assistance Grant Agreement granted from the State of Oregon Public Transit Division for operating the Albany Transit System in an amount not to exceed \$27,350 and for the Linn-Benton Loop System in an amount not to exceed \$33,050 for the year beginning July 1, 1987.


NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Albany, Oregon, hereby designates the City Manager to sign such agreement on behalf of the City along with the Civil Rights Assurances for Small City and Rural Area Grant Recipients.

DATED this 28th day of October, 1987.



Mayor

ATTEST:



City Recorder

CIVIL RIGHTS ASSURANCES
FOR
SMALL CITY AND RURAL AREA GRANT RECIPIENTS

The City of Albany (Recipient) certifies, as a condition of receiving financial assistance under the Oregon Small City and Transit Assistance Program, that:

1. No person shall be excluded from participation in, or denied the benefits of, or be subject to discrimination on the grounds of race, color, creed, national origin, sex, age, or handicap under any project, program, or activity for which this Recipient receives financial assistance through the Small City and Rural Area Transit Assistance Program.
2. The Recipient shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, or national origin, and shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, within regard to their race, color, religion, sex, or national origin.
3. The Recipient will conduct any program or operate any facility that receives or benefits from financial assistance administered by the Department of Transportation in the compliance with all requirements imposed by or pursuant to 49 CFR Part 27, Nondiscrimination on the Basis of Handicapped and Federally Assisted Programs and Activities Receiving or Benefiting Federal Financial Assistance.
4. Recipient is making special efforts to provide a transportation that handicapped persons, including wheelchair users and semiambulatory persons can use. This transportation shall be reasonable in comparison to the transportation provided to the general public and shall meet a significant fraction of the actual transportation needs of such persons within a reasonable time.
5. Recipient filed a standard DOT Title VI Assurance with the State on November 22, 1985.

This Assurance should be signed by a person authorized to sign on behalf of the Recipient.

[Signature]
(Name)

[Signature]
(Title)

**1987 - 1988
ANNUAL OPERATING ASSISTANCE GRANT AGREEMENT**

This Agreement is made and entered into by and between the State of Oregon by and through its Department of Transportation, Public Transit Division ("Division") and the City of Albany for the Linn-Benton Loop ("Contractor").

WHEREAS, pursuant to ORS 184.670 -.733, the Oregon Transportation Commission through Division is authorized to enter into contracts and disburse funds for the purpose of supporting public transportation; and,

WHEREAS, Section 18 of the Urban Mass Transportation Act of 1964, as amended, provides for operating assistance funding in nonurbanized areas; and,

WHEREAS, the Governor of the State of Oregon in accordance with a request by the Urban Mass Transportation Administration, hereinafter referred to as "UMTA", has designated Division to evaluate and select projects and to coordinate the grant application; and,

WHEREAS, pursuant to Chapter 150, Oregon Laws 1987, the 1987 Legislative Assembly authorized State General Fund assistance to transit systems; and,

WHEREAS, Contractor has submitted an application which describes the area to be served, the type of transportation service, and the need for funding.

NOW THEREFORE, in consideration of the mutual covenants herein Division and Contractor agree to be bound by the terms and conditions of the General Provisions which are attached and are by reference incorporated herein, as set out except for:

Part II, Section 4.a. Pre-grant Award Audit.

Part II, Section 7. Hold Harmless.

In addition, Division and Contractor agree to be bound by the terms of the following special provisions:

No special provisions

This Agreement is approved by the Administrator of the Public Transit Division under authority granted him by the Oregon Transportation Commission. Said authority is set forth in Oregon Transportation Commission Delegation Order No. 24, adopted by the Commission on June 19, 1979.

Signed this 10th day of October, 1987.

APPROVED AS TO FORM

STATE OF OREGON BY AND THROUGH
ITS DEPARTMENT OF TRANSPORTATION,
PUBLIC TRANSIT DIVISION

Cynthia Carter
Assistant Attorney General

William H. Moore
Administrator
Public Transit Division

CONTRACTOR

W. J. Jolley
Title: *Finance Director*

Title: _____

Title: _____

GENERAL PROVISIONS
PART I
DIVISION'S OBLIGATIONS

Section 1. Effective Date. This Agreement shall become effective upon signature by the Administrator of the Public Transit Division. Eligible costs incurred during the period commencing July 1, 1987 and ending June 30, 1988 shall be reimbursed under this Agreement.

Section 2. Contract Limit.

a. Division shall reimburse Contractor for up to fifty percent (50%) of the operating deficit and up to eighty percent (80%) of the administrative cost associated with project implementation. Such reimbursement shall not exceed \$ 33,100 of State General Funds and/or federal funds available under Section 18 of the Urban Mass Transportation Act of 1964, as amended.

b. Project funds beyond those required to match federal funds at the rate of 50 percent for operating expense and 20 percent for administrative cost shall be considered to be non-participating funds for the purpose of federal-aid matching requirements.

Section 3. Reimbursement. Reimbursement to Contractor shall be made monthly on the basis of a report which shall be compiled and submitted to Division in the format detailed in Attachment A which is by this reference incorporated herein.

Said reimbursement shall be subject to the satisfactory completion of an audit of this grant.

Section 4. Withholding of Payment. Division reserves the right to withhold payment of funds if all required reporting has not been submitted, or if there are any unresolved audit findings.

Section 5. Reallocation of Funds. Division reserves the right to reallocate any unused portion of the amount specified in Part I, Section 2, which, based upon Division's estimates, will not be used by June 30, 1988.

PART II
CONTRACTOR'S OBLIGATIONS

Section 1. Scope of Project. Contractor shall operate public transportation services substantially in conformance with the description contained in its application. Contractor shall notify Division of changes in its service. Such transportation services shall be available to the general public.

Section 2. Use of Project Funds. Contractor shall request, receive, and disburse funds authorized under this Agreement.

Section 3. Submission of Reports. Contractor shall submit to Division monthly reports as referred to in Attachment A. Division reserves the right to request such additional information as may be necessary to comply with federal or state reporting requirements.

Section 4. Audit Requirements.

a. Pre-Grant-Award. Contractor shall permit Division to conduct at Division's own expense a pre-grant-award audit of Contractor's financial and management systems. Such pre-grant-award audit will ensure that Contractor's financial management procedures comply with the state and federal requirements applicable to this Agreement. Funds available under this Agreement cannot be requested by Contractor until such time as the pre-grant-award audit has been completed.

b. Audit. Contractor shall, at Contractor's own expense, submit to Division an annual audit covering the monies expended under this Agreement and shall submit or cause to be submitted, the annual audit of any subcontractor of Contractor responsible for the financial management of funds received under this Agreement. Said audit(s) shall meet the standards for audit set out in OMB Circular A-128, Audits of State and Local Governments.

Section 5. Access to Records. Contractor shall permit Division, the Secretary of State of the State of Oregon, the Comptroller General of the United States, the Secretary of the United States Department of Transportation, or their authorized representatives, upon reasonable notice, to inspect all transportation services rendered by Contractor, or any subcontractor acting on Contractor's behalf, and all data and records relating to the transportation system and its management, as well as the physical premises and equipment of the system. Further, Contractor agrees to maintain all required records for at least three years after Division's final payment and other pending matters have been resolved.

Section 6. Subcontracts. Contractor shall submit proposed third party agreements relating to provision or operation of transit service to Division for review. Division shall concur, or otherwise respond to Contractor, within fifteen (15) working days.

Third party agreements should contain provisions to the effect of Section 4.b.(Audit), Section 5 (Access to Records), and Section 9 (Compliance with Laws, Regulations, and Ordinances).

Section 7. Hold Harmless. Contractor shall save and hold harmless the State of Oregon, including the Oregon Transportation Commission, the Department of Transportation, Public Transit Division, and their members, officers, agents, and employees from all claims, suits, or actions of whatever nature arising out of the performance of this contract including claims made under Section 13(c) of the Urban Mass Transportation Act of 1964, as amended, except for claims arising out of the negligent acts or omissions of the State of Oregon, its employees, or representatives.

Section 8. Purchases. Contractor shall make purchases of any equipment, materials, or services pursuant to this Agreement under procedures consistent with those outlined in Office of Management and Budget Circular A-102, Attachment O "Procurement Standards", UMTA Circular 4220.1A, "Third Party Contracting Guidelines", Oregon Department of General Services Administrative Rules (Oregon Administrative Rules, Chapter 125), and the laws of the State of Oregon.

Section 9. Compliance with Laws, Regulations, Ordinances.

a. Contractor shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Agreement. In particular, the Contractor agrees to comply with the following specific regulations:

(1) Non-discrimination. Contractor will comply with Title VI of the Civil Rights Act of 1964 (78 Stat 252; 42 USC 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A), issued pursuant to this Act. Contractor will exclude no person on the grounds of race, religion, color, sex, age, or national origin from the benefits of aid received under this Agreement.

(2) Disadvantaged Business Enterprise. Contractor will provide for full and fair utilization of socially and/or economically disadvantaged business enterprises (DBEs). Contractor will use its best efforts to ensure that DBEs shall have an equal opportunity to compete for contract and subcontract work under this agreement.

In the paragraphs below, "recipient" refers to Contractor.

In accordance with 49 CFR 23, all bidders and all contractors shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
POLICY STATEMENT**

DBE POLICY. It is the policy of the Oregon Department of Transportation (DOT) that socially and/or economically disadvantaged business enterprises as defined in the 49 CFR 23 (DBEs) shall have the maximum opportunity to participate

in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the requirements of 49 CFR 23 apply to this agreement.

DBE OBLIGATION. Recipients, contractors, and bidders agree to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with funds provided under this agreement. In this regard, recipients, contractors, and bidders shall take all necessary and reasonable steps in accordance with 49 CFR 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts.

Recipients, contractors, and bidders shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

The DBE Policy Statement shall be included in all subcontracts entered into under this contract. Bidders and contractors include proposers and consultants; bids include proposals.

(3) Equal Employment Opportunity. Contractor, and any subcontractor acting on its behalf, will comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and supplemented by Department of Labor regulations 41 CFR Part 60). Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age or national origin.

(4) Charter Bus Operation. The Contractor and all subrecipients of funds under this Agreement through the Contractor (referred to as "Recipients" below) will comply with UMTA's charter service regulations (49 CFR 604). In particular,

- (a) Recipients may provide charter bus service that uses equipment or facilities provided under the Urban Mass Transportation Act of 1964, as amended, only when one of the following conditions apply:
 - (i) There is no private charter service operator willing and able to provide the charter service.
 - (ii) Recipients contract with a private charter service operator to provide charter equipment or service to the private charter operator.

(iii) Recipients have been granted an exception by the UMTA Administrator under 49 CFR 604.9.

(b) The expenses incurred for charter service are not eligible for reimbursement under this Agreement.

(5) School Bus Operation. Contractor, or any operator of public transportation service acting on its behalf, will not engage in school bus operations (exclusive transportation of students and school personnel) in competition with private school bus operators as part of this project. The expenses for such service are not eligible for reimbursement under this Agreement (49 CFR 605).

(6) Transportation of Disabled Persons. Contractor will provide transportation service to disabled persons which they can use effectively. Contractor will exclude no person on the basis of a handicap from the benefits of aid received under this grant (49 CFR Part 27).

(7) Labor Protection. Contractor will comply with the regulations issued by the U.S. Department of Transportation and Department of Labor pursuant to Section 13(c) of the Urban Mass Transportation Act of 1964, as amended. Contractor will comply with the Special 13(c) Warranty, Attachment B of this Agreement which is by this reference incorporated into the Agreement. Contractor will ensure that the condition of Contractor's employees, or of employees of other transportation providers in its area, is not made worse as a result of aid received under this Agreement (29 CFR 215).

(8) Record Keeping and Management of Funds. Contractor will manage and account for funds and property received under this Agreement in accordance with the provisions of Office of Management and Budget Circular A-102, "Uniform Administrative Requirement for Grants-in-Aid to State and Local Governments".

(9) Eligibility of Expense. Contractor will prepare its requisitions of the funds available under this Agreement in accordance with the provisions of the Office of Budget and Management Circular A-87, "Cost Principles for State and Local Governments".

(10) Prohibited Interest. Contractor's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.

b. Division reserves the right to waive individual requirements of Section 9.a.

if Contractor is to receive funds solely from the General Fund of the State of Oregon.

PART III
GENERAL CONDITIONS

Section 1. Supplemental Agreements. This Agreement may be revised or amended by a supplemental written agreement between the parties and executed with the same formalities as this Agreement.

Section 2. Termination.

a. For Convenience: The Division may terminate the Project and cancel this Agreement in whole or in part whenever:

- (1) The requisite state and/or federal funding becomes unavailable through failure of appropriation or otherwise; or,
- (2) The requisite local funding to continue this project becomes unavailable to Contractor; or,
- (3) Both parties agree that continuation of the Project would not produce results commensurate with the further expenditure of funds.

b. With Cause: The Division may, by written notice to Contractor, terminate the Project and cancel this Agreement for any of the following reasons:

- (1) Contractor takes any action pertaining to this Agreement without the approval of Division and which under the provisions of this Agreement would have required the approval of Division; or,
- (2) The commencement, prosecution, or timely completion of the Project by Contractor is, for any reason, rendered improbable, impossible, or illegal; or,
- (3) Contractor is in default under any provision of this Agreement.

Section 3. Contractor's Authorization. This Agreement shall be executed by those officials authorized to execute this Agreement on the Contractor's behalf. In the event Contractor's governing body delegates signature of the agreement, Contractor shall attach to this Agreement a copy of the motion or resolution which authorizes said officials to execute this Agreement, and shall also certify its authenticity.

Section 4. Regulations. This Agreement is based upon and is subject to the regulations issued by UMTA pursuant to Section 18 of the Urban Mass Transportation Act of 1964, as amended. These regulations are contained in UMTA Circular 9040.1A. UMTA may, from time to time, amend these regulations, particularly as they affect reporting requirements and the matching ratios for operating and administrative expense. Division reserves the right to amend this Agreement if it is affected. Division will provide thirty (30) days notice of impending changes and will prepare a supplemental agreement incorporating the changes to be executed by the parties to this Agreement.

SMALL CITY AND RURAL AREA OPERATING ASSISTANCE PROGRAM Attachment A
MONTHLY REIMBURSEMENT REQUEST

GRANTEE _____ FOR _____
 (month or period)

OPERATING EXPENSE

| | REPORTED TO DATE | ADJUSTMENTS (if any) | CURRENT MONTH | PROJECT TOTAL |
|--------------------------------|------------------|----------------------|---------------|---------------|
| Drivers' Salaries | | | | |
| Fuel & Oil | | | | |
| Insurance | | | | |
| Leases | | | | |
| Operating Contracts | | | | |
| Other Operations Expense | | | | |
| Mechanics' Salaries | | | | |
| Parts & Supplies | | | | |
| Tires | | | | |
| Maintenance Contracts | | | | |
| Other Maintenance Expense | | | | |
| TOTAL OPERATING EXPENSE | | | | |

REVENUE

| | COLLECTED TO DATE | | | |
|--------------------------------|-------------------|--|--|--|
| Farebox | | | | |
| Tickets & Passes | | | | |
| Advertising | | | | |
| Miscellaneous | | | | |
| a: _____ | | | | |
| b: _____ | | | | |
| c: _____ | | | | |
| TOTAL OPERATING REVENUE | | | | |
| OPERATING DEFICIT | | | | |
| Grant Reimbursement x 0.50 | | | | |

**SMALL CITY AND RURAL AREA OPERATING ASSISTANCE PROGRAM
MONTHLY REIMBURSEMENT REQUEST**

ADMINISTRATIVE EXPENSE

| | REPORTED TO DATE | ADJUSTMENTS (if any) | CURRENT MONTH | PROJECT TOTAL |
|-------------------------------------|-----------------------------|---------------------------------|--------------------------|--------------------------|
| Supervisors' Salaries | | | | |
| Office Expense | | | | |
| Contracted Services | | | | |
| Marketing | | | | |
| Interest Expense | | | | |
| Other Administrative Expense | | | | |
| TOTAL ADMINISTRATIVE EXPENSE | | | | |
| Grant Reimbursement (x 0.80) | | | | |

MATCHING FUNDS

| | PROVIDED TO DATE | | | |
|-----------------------------------|-----------------------------|--|--|--|
| Federal Sources: | | | | |
| Green Thumb/CETA | | | | |
| Older Americans Act | | | | |
| Community Services Grants | | | | |
| Other: _____ | | | | |
| Local Sources | | | | |
| Federal Revenue Sharing | | | | |
| Property Tax Levy | | | | |
| Special Transportation Fund | | | | |
| Interest Earnings | | | | |
| Other: _____ | | | | |
| Other Sources | | | | |
| Volunteer Services | | | | |
| Donated Supplies | | | | |
| Foundation Grants | | | | |
| TOTAL MATCHING FUNDS | | | | |
| OPERATING ASSISTANCE GRANT | | | | |

**SMALL CITY AND RURAL AREA OPERATING ASSISTANCE PROGRAM
MONTHLY REIMBURSEMENT REQUEST**

OPERATING STATISTICS

Days of Operation
Hours of Operation
Bus Mileage
Passenger Trips

| REPORTED TO DATE | THIS MONTH'S STATISTICS | PROJECT TOTAL |
|------------------|-------------------------|---------------|
| | TOTAL SYSTEM | |
| | | |
| | | |
| | | |

PURCHASES FROM DISADVANTAGED BUSINESS ENTERPRISES

| DBE | WBE | AMOUNT OF PURCHASE | COMPANY |
|--------------------------|--------------------------|-----------------------------------|----------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| <input type="checkbox"/> | <input type="checkbox"/> | | |
| REPORTED TO DATE | | TOTAL PURCHASES THIS MONTH | PROJECT TOTAL |
| | | | |

Prepared by _____ Date: _____

**SPECIAL SECTION 13(c) WARRANTY
FOR APPLICATION TO THE SMALL URBAN
AND RURAL PROGRAM**

The following language shall be made part of the contract of assistance with the State or other public body charged with allocation and administration of funds provided under Section 18 of the Act:

A. General Application

The Contractor ("Public Body") agrees that, in the absence of waiver by the Department of Labor, the terms and conditions of this warranty, as set forth below, shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the Project ("Recipient"), and the transportation related employees of any other surface public transportation providers in the transportation service area of the project.

The Public Body shall provide to the Department of Labor and maintain at all times during the Project an accurate, up-to-date listing of all existing transportation providers which are eligible Recipients of transportation assistance funded by the Project in the transportation service area of the Project, and any labor organizations representing the employees of such providers.

Certification by the Public Body to the Department of Labor that the designated Recipients have indicated in writing acceptance of the terms and conditions of the warranty arrangement will be sufficient to permit the flow of Section 18 funding in the absence of a finding of non-compliance by the Department of Labor.

B. Standard Terms and Conditions

- (1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient and any other legally responsible party designated by the Public Body to assure that any and all transportation services assisted by the Project are contracted for and operated in such manner that they do not impair the rights and interests of affected employees. The term "Project," as used herein, shall not be limited to the particular

facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in this position with regard to his employment as a result of the Project, but who is dismissed, displaced otherwise worsened solely because of the total or partial termination of the Project, discontinuance of Project services, or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model agreement or applicable provisions of substitute comparable arrangements.

- (2) (a) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.
- (2) (b) The Recipient or legally responsible party shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacement or dismissals or rearrangements of the working forces. In the case of employees represented by a union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and number and classifications of any jobs in the Recipient's employment available to be filled by such affected employees.
- (2) (c) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accor-

dance with paragraph (4) of this warranty. The foregoing procedures shall be complied with and carried out prior to the institution of the intended action.

- (3) For the purpose of providing the statutory required protections including those specifically mandated by Section 13(c) of the Act¹, The Public Body will assure as a condition of the release of funds that the Recipient agrees to be bound by the terms and conditions of the National (Model) Section 13(c) Agreement executed July 23, 1975, identified below², provided that other comparable arrangements may be substituted therefor, if approved by the Secretary of Labor and certified for inclusion in these conditions.
- (4) Any dispute or controversy arising regarding the application, interpretation, or enforcement of any of the provisions of this arrangement which cannot be settled by and between the parties to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor for final and binding determination. The compensation and expenses of the impartial third party, and any other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.

In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his obligation to identify the

¹ Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training and retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to Section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended.

² For purposes of this warranty arrangement, paragraphs (1); (2); (5); (15); (22); (23); (24); (26); (27); (28); and (29) of the Model Section 13(c) Agreement, executed July 23, 1975 are to be omitted.

Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of either the Recipient of these conditions to prove that factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee.

- (5) The Recipient or other legally responsible party designated by the Public Body will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by these arrangements, or the union representative of such employee, may file claim of violation of these arrangements with the Recipient within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position with respect to his employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim.
- (6) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights of any union or of any represented employee derived from any other agreement or provision of federal, state or local law.
- (7) In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, he shall be granted priority of employment or reemployment to fill any vacant position within the control of the Recipient for which he is, or by training or retraining within a reasonable period, can become qualified. In the event training or retraining is required by such employment or reemployment, the Recipient or other legally responsible party designated by the Public Body shall provide or provide for such training or retraining at no cost to the employee.
- (8) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under the Urban Mass Transportation Act and has agreed to comply with the provisions of Section 13(c) of the Act. This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of these arrangements and to the proper determination of any claims arising thereunder.

- (9) Any labor organization which is the collective bargaining representative of employees covered by these arrangements, may become a part to these arrangements by serving written notice of its desire to do so upon the Recipient and the Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organization shall participate shall be determined by the Secretary of Labor.
- (10) In the event the Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Public Body or Recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

C. Waiver

As a part of the grant approval process, either the Recipient or other legally responsible party designated by the Public Body may in writing seek from the Secretary of Labor a waiver of the statutory required protections. The Secretary will waive these protections in cases, where at the time of the requested waiver, the Secretary determines that there are no employees of the Recipient or any other surface public transportation providers in the transportation service area who could be potentially affected by the project. A 30-day notice of proposed waiver will be given by the Department of Labor and in the absence of timely objection, the waiver will become final at the end of the 30-day notice period. In the event of timely objection, the Department of Labor will review the matter and determine whether a waiver shall be granted. In the absence of waiver, these protections shall apply to the Project.