

# ATTACHMENT 2

## **MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF WILSONVILLE AND THE TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON REGARDING POTENTIAL ADJUSTMENT OF TRIMET DISTRICT BOUNDARIES**

This Memorandum of Understanding (MOU) is made and entered into by and between the **City of Wilsonville (Wilsonville)**, an Oregon municipal corporation, and the **Tri-County Metropolitan Transportation District of Oregon (TriMet)**, an Oregon mass transportation district, referred to collectively herein as the “Parties.”

### **RECITALS**

**WHEREAS**, TriMet is an Oregon mass transit district established pursuant to ORS Chapter 267 to provide transportation services within Washington, Multnomah and Clackamas counties, and Wilsonville is an Oregon municipal corporation located in Clackamas and Washington counties; and

**WHEREAS**, the Parties have authority to enter into agreement(s) with each other pursuant to ORS Chapter 267 and ORS Chapter 190; and

**WHEREAS**, Wilsonville operates a municipal transit department, South Metro Area Regional Transit (SMART), that provides transit services within the Wilsonville city limits and connection services outside of its city limits in collaboration with other transit agencies, including TriMet; and

**WHEREAS**, Wilsonville seeks to establish its SMART service area boundary consistent with its current city limits and also extend its SMART service into its designated urban growth boundary (UGB) area in the future; and

**WHEREAS**, contemporaneously with the execution of this MOU, the Parties intend to execute the attached Intergovernmental Agreement (IGA), whereby TriMet will agree to voluntarily adjust its District boundaries to withdraw from three areas within the Wilsonville city limits, as shown on the Exhibit A map and Exhibit B description attached to the IGA; and

**WHEREAS**, pursuant to the terms of the attached IGA, Wilsonville will agree to pay TriMet the sum of \$2,738,000 to compensate TriMet for the estimated current and future tax revenue TriMet expects to forgo over ten years following its voluntary withdrawal of the three areas shown in Exhibits A and B from the District; and

**WHEREAS**, the Wilsonville City Council adopted a budget supplemental in the amount of \$2,738,000 in anticipation of compensating TriMet for the adoption of an Ordinance that voluntarily withdraws the three areas shown in Exhibits A and B from the TriMet District; and

**WHEREAS**, at its April 26, 2023 meeting, the TriMet Board of Directors authorized TriMet’s General Manager to execute an IGA with the City of Wilsonville with terms

substantially similar to the IGA, and once the IGA is executed by the Parties, the withdrawal of the three areas must be implemented by the Board's subsequent adoption of a voluntary Withdrawal Ordinance; and

**WHEREAS**, TriMet's District also includes areas outside of Wilsonville's city limits and within the Wilsonville Urban Growth Boundary (UGB), including the area south of the Basalt Creek Parkway, where TriMet currently does not provide transit service; and

**WHEREAS**, pursuant to TriMet's December 2015 Southwest Service Enhancement Plan, TriMet intends to extend service to areas along SW 124<sup>th</sup> Avenue and along the future path of the Basalt Creek Parkway, as those rural areas become more developed and demand for regular transit service increases; and

**WHEREAS**, Wilsonville intends to make significant planning, infrastructure, and financial investments to support urbanized growth north of its current city limits and within its UGB area, and as development occurs the city intends to annex the UGB area and extend its SMART service there, and TriMet recognizes that the area south of the Basalt Creek Parkway is important to Wilsonville's future economic development and will be incorporated into the future Wilsonville city limits; and

**WHEREAS**, the Parties wish to negotiate a second IGA that would withdraw territory from the TriMet District that is within Wilsonville's UGB area and south of the Basalt Creek Parkway, in exchange for a further compensatory payment from Wilsonville, which would be made effective by the TriMet Board's adoption of a second voluntary Withdrawal Ordinance; and

**WHEREAS**, in the event the Parties' negotiation of a second IGA pertaining to the adoption of a voluntary Withdrawal Ordinance fails or is unreasonably delayed, the Parties wish to clarify the additional steps that must occur pursuant to ORS 267.250-267.265 for electors to petition the TriMet Board for an adjustment of the District boundary to withdraw from territory within the Wilsonville UGB area and south of the Basalt Creek Parkway;

**NOW, THEREFORE**, in the context of the above Recitals, and in the interest of furthering negotiations and achieving a fair and reasonable result, TriMet and Wilsonville acknowledge the following Mutual Understandings:

### **MUTUAL UNDERSTANDINGS**

**1. Negotiation for Voluntary Withdrawal.** As soon as reasonably practicable after the execution of the IGA and MOU referenced above, the Parties will engage in negotiations to identify areas in the TriMet District that are within the Wilsonville UGB area and south of the Basalt Creek Parkway that are not currently served by TriMet, that TriMet does not foresee serving in the near future, and/or where SMART and TriMet may be able to jointly serve transit riders (such as along the Basalt Creek Parkway) in order to identify territory that may be excluded from the TriMet District pursuant to a voluntary Withdrawal Ordinance under ORS 267.207(1).

**2. Compensation.** The Parties understand that TriMet expects its adoption of a voluntary Withdrawal Ordinance pursuant to ORS 267.207(1) pertaining to specified territory within the Wilsonville UGB area would be in exchange for Wilsonville's payment of a fair and reasonable amount sufficient to compensate TriMet for the estimated current and future tax revenue TriMet would forgo after voluntary withdrawal of the specified territory. Similarly, the Parties understand that Wilsonville expects the pricing of such payment to TriMet to be consistent with the bases for its payment of \$2,738,000 for the properties currently within the Wilsonville city limits.

**3. Goal of Negotiations.** The Parties understand that the goal of their negotiations is to achieve a mutually beneficial change from the current TriMet District boundary at the northern Wilsonville city limits to a new boundary along the proposed Basalt Creek Parkway that will provide for efficient and cost-effective delivery of public transportation service from TriMet and SMART that best serves the needs of transit riders in the area.

**4. Petition for Withdrawal.** Notwithstanding the Parties ongoing efforts to negotiate an agreement for TriMet's adoption of a voluntary Withdrawal Ordinance applicable to Wilsonville's UGB area south of the proposed Basalt Creek Parkway, the Parties understand that Wilsonville may deem it necessary to promote and support the filing of a petition for withdrawal from the TriMet District by registered electors residing within the UGB area. TriMet will not impede or interfere with Wilsonville's efforts and will not object to the city's communication with individuals within the Wilsonville UGB area, in order to facilitate the filing of a petition to withdraw from the TriMet District pursuant to the requirements of ORS 267.250 through 267.265.

**5. Communication.** Should the registered electors file such a withdrawal petition, the Parties will share information pertaining to the petition and the withdrawal process for the purposes of transparency and to ensure that the TriMet Board and the Wilsonville City Council are fully informed. Upon learning that registered electors within the affected area intend to file a withdrawal petition, Wilsonville will provide written notice to TriMet's Executive Director for Public Affairs of that fact, and in its written notification, Wilsonville will designate a project manager to serve as its point of contact and provide the project manager's contact information. Upon receipt of written notification from Wilsonville, TriMet will similarly designate a project manager and provide written notification to Wilsonville of its project manager's name and contact information. The Parties' project managers will communicate regularly (at least monthly) regarding the withdrawal process and issues encountered, and will make a good faith effort to coordinate and collaborate concerning these matters.

**6. Criteria for Filing of Withdrawal Petition.** The Parties understand that pursuant to ORS 267.250 and 267.253, a withdrawal petition may be filed by not less than fifteen percent of the registered electors who reside in an "affected area," which is an area of not less than one square mile within which at least 200 electors reside, and which also is outside of any city with a population of 10,000 or more. The Parties further understand that, pursuant to ORS 267.253(2), the next possible date such a petition may be filed is during the period from January 1, 2026 through August 30, 2026.

**7. Verification of Signatures by County Clerk.** In the event a petition seeking withdrawal from the TriMet District of an affected area within the Wilsonville UGB area is submitted to TriMet, and the signatures of the requisite number of registered electors on the petition are certified by the county clerk, ORS 267.255 and 267.257 require the TriMet Board to conduct a study of the affected area proposed for withdrawal and hold a hearing on the petition.

**8. TriMet Study of “Affected Area” Proposed for Withdrawal.** As soon as practicable after TriMet receives notice from Wilsonville that a petition for withdrawal will be filed, TriMet will take action to initiate the statutorily required study of the “affected area.” TriMet need not wait for the formal submission of the petition and the clerk’s certification of the signatures to begin the study. The study shall comply with ORS 267.257 and consider the following:

- current use of the District’s transit system within the affected area,
- the amount of District revenues derived from the area,
- the history of the District’s provision of transit service in the area,
- whether or when the District will provide transit service, and
- an assessment of the effect of the withdrawal on the rest of the District, including the extent to which taxes must be increased on the rest of the District as a result of the withdrawal.

**9. Effect of Withdrawal on District Tax Revenue.** Wilsonville acknowledges that, pursuant to ORS 267.260, the withdrawal of an area requires the District to recalculate and increase the tax burden on the rest of the District in order to restore the loss of tax revenue caused by the withdrawal of the affected area.

**10. Notices.** Notices regarding this MOU shall be deemed sufficient if deposited in the United States Mail, First Class, postage prepaid, addressed to the Parties as follows:

To Wilsonville:           City of Wilsonville  
                                  Attn: City Manager  
                                  With Copy to: City Attorney  
                                  29799 SW Town Center Loop East  
                                  Wilsonville, Oregon 97070

To TriMet:                 TriMet  
                                  Attn: Executive Director for Government Affairs  
                                  With Copy to: General Counsel  
                                  1800 SW 1<sup>st</sup> Avenue, Suite 300  
                                  Portland, Oregon 97201

**11. Termination.** Either Party may terminate this MOU upon upon seven (7) business days' prior written notice to the other Party.**12. Effective Date.** This MOU is effective on the last date signed by the Parties below and remains in effect until terminated as provided herein.

**13. Governing Law.** This MOU is governed by the laws of the State of Oregon. Venue for any litigation shall be in the state circuit court of Washington County, Oregon.

**14. Amendment.** The terms of this MOU may be amended or supplemented by mutual agreement of the Parties. Any amendment or supplement shall be in writing, shall refer specifically to this MOU, and shall be executed by the Parties.

**15. Good Faith and Cooperation.** The Parties agree that they will exercise good faith, cooperation, and due diligence in the performance of all understandings set forth in this MOU.

**16. Interpretation.** The Parties acknowledge that this MOU has been collaboratively prepared by the Parties, and any uncertainty or ambiguity existing within the MOU shall not be construed against any Party.

**17. Counterparts.** This MOU may be signed in one or more counterparts, each of which shall be deemed an original and, when taken together, shall constitute one and the same document.

**18. Non-Binding.** This MOU is a statement of intent and willingness to cooperate to achieve the mutually beneficial goals of the Parties. It is not a contract and it is non-binding.

**19. Authority.** Each Party signing on behalf of TriMet and Wilsonville hereby warrants actual authority to enter into this MOU.

**IN WITNESS WHEREOF,** Each Party has caused its authorized representative to execute this MOU on its behalf.

**CITY OF WILSONVILLE**

**TRI-COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT  
OF OREGON**

**an Oregon municipal corporation**

**an Oregon mass transportation District**

By: \_\_\_\_\_

By: \_\_\_\_\_

City Manager

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

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Amanda R. Guile-Hinman

City Attorney

APPROVED AS TO FORM:

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Gregory E. Skillman  
Senior Deputy General Counsel

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