

**MEMORANDUM OF UNDERSTANDING FOR ESTABLISHING A LOCAL
IMPROVEMENT DISTRICT TO PROVIDE PUBLIC INFRASTRUCTURE
IMPROVEMENTS**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into as of the _____ day of _____ 2024 (“Effective Date”) by and between the **City of Wilsonville**, an Oregon municipal corporation (“City”) and **ScanlanKemperBard Companies, LLC**, an Oregon limited liability company and **SKB-Parkworks, LLC**, a Delaware limited partnership (collectively “SKB”). The City and SKB may each be referred to herein as “Party” and collectively as the “Parties.”

RECITALS

A. SKB-Parkworks, LLC owns the real property located at 26600 SW Parkway Avenue, Wilsonville, Clackamas County, Oregon (the “Property”).

B. SKB proposes to partition the Property into two parcels – proposed Parcel 5 and Parcel 6 – with Parcel 6 housing the existing development and Parcel 5 serving as the location for a new industrial manufacturing/warehouse development (the “Proposed Development”). If approved, the Proposed Development will consist of a 91,773 square-foot building and related improvements which would front SW Parkway Avenue to the west (“Parkway”) and SW Printer Parkway to the north (“Printer Parkway”).

C. The Parties have actively negotiated in good faith to resolve outstanding issues surrounding the City’s requirements for improvements to Parkway and Printer Parkway along SKB’s frontage (“Street Improvements”).

D. The Parties acknowledge that neither is well-positioned to carry the burden of constructing the Street Improvements with compensation provided by the other Party due to the uncertainty of construction costs and timing of payments.

E. As a result of the ongoing negotiations, the Parties understand that the formation of a local improvement district, pursuant to ORS 223.387 *et seq.* (“LID”), appears to be an appropriate method to fund the Street Improvements and for the City to finance construction of the Street Improvements.

F. This MOU provides the Parties with a framework to continue to cooperatively engage with one another to establish a LID (the “Project”). This MOU is not otherwise binding on either Party to require the formation of a LID.

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

MUTUAL UNDERSTANDINGS

1. Project Managers. The City's Project Manager is _____ [insert name, email, phone]. SKB's Project Manager is _____ [insert name, email, phone].

2. Communication. The Project Managers will coordinate regularly (not less than monthly) regarding Project progress and issues encountered. At a minimum, this will consist of a phone call, but may also include in-person meetings as requested by either Party.

3. Timeline. The Parties will endeavor to meet the following timeline for establishing a LID:

3.1. Resolution for Preliminary Engineer's Report. On March 4, 2024, the City intends to provide to the City Council for consideration a resolution to direct the City to pursue a preliminary engineering report to recommend the LID boundary, infrastructure improvements, and estimated costs.

3.2. Intergovernmental Agreement. The City will pursue an intergovernmental agreement ("IGA") with the City of Portland for technical assistance regarding the formation and implementation of a LID. Assuming the City of Portland's willingness, the City anticipates City Council consideration of an IGA on or before May 20, 2024.

3.3. Property Owner Outreach. The Parties will collaborate on outreach to adjacent property owners to discuss the possibility of inclusion in a LID. The Parties intend to promote a LID as a reasonable financing tool for public infrastructure that is needed for both private development and public benefit.

3.4. Procedural Resolution. The Parties will collaborate on drafting a procedural resolution described in ORS 223.389(1) for City Council consideration, anticipated to occur in Summer or Fall 2024.

3.5. Enacting Resolution. The Parties will collaborate on drafting a resolution establishing the LID and the assessments against each benefiting property for City Council consideration, anticipated to occur early in calendar year 2025.

4. Duration. The term of this MOU will be from the Effective Date until passage of an enacting resolution described in subsection 3.5 above or not later than twenty-four (24) months from the Effective Date, whichever is earlier.

5. Due Diligence. The City and its authorized representatives, consultants, contractors, agents, and employees may conduct due diligence and inspections of the Property, including such physical, legal, and engineering inspections, tests, and investigations as it may deem necessary or desirable, including soils and environmental studies along, within, over, under, and adjacent to Parkway and Printer Parkway for the purpose of determining scope, type, need, and feasibility of public infrastructure. Such studies and investigations may include, without

limitation, environmental, title, design review, project feasibility, and related matters (the “Due Diligence Information”). The scope and cost of the due diligence and inspections shall be the responsibility of the City but the City may elect to include such costs as reimbursement in a future LID assessment. The City, or its authorized representatives, consultants, contractors, or agents, will repair or restore any damage caused by the entry of or testing by the City or its authorized representatives, consultants, contractors, agents, and employees upon or under the Property.

5.1. SKB Approval to Enter Site. Prior to the City or its authorized representatives, consultants, contractors, agents, and employees commencing any onsite due diligence, the City will request, no less than seventy-two hours (72) hours prior to entry, to the SKB Project Manager approval to enter the site and to conduct specific testing. SKB’s approval to enter the site and to conduct testing will not be unreasonably withheld.

6. Communications with the Public and Property Owners. Both Parties shall work in good faith to coordinate Project-related public communications, including press releases, statements to the media, public testimony, and communications to adjacent property owners.

7. Miscellaneous Provisions.

7.1. Integration. This MOU, including all exhibits attached hereto, contains the entire and integrated understanding between the Parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these or any other documents, the provisions of this MOU shall control.

7.2. No Assignment. SKB may not assign this MOU, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

7.3. Governing Law. This MOU shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws.

7.4. Jurisdiction. Jurisdiction and venue for any dispute will be in Clackamas County Circuit Court, Clackamas County, Oregon.

7.5. Modification. This MOU may not be modified except by written instrument executed by SKB and the City.

7.6. 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

7.7. 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.

7.8. Counterparts. This MOU may be executed in one or more counterparts, each of which shall constitute an original MOU but all of which together shall constitute one and the same instrument.

7.9. Authority. Each party signing on behalf of SKB and the City hereby warrants actual authority to bind their respective party.

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

**SCANLANKEMPERBARD
COMPANIES, LLC**

CITY OF WILSONVILLE

By: _____

By: _____

Print Name: _____

Print Name: _____

As Its: _____

As Its: _____

SKB-PARKWORKS, LLC

By: _____

Print Name: _____

As Its: _____

APPROVED AS TO FORM:

Christe White, Counsel for SKB

Amanda Guile-Hinman, City Attorney
City of Wilsonville, Oregon

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