

**RESOLUTION NO. 1971**

**A RESOLUTION AUTHORIZING THE FIRST AMENDMENT TO AN URBAN SERVICES INTERGOVERNMENTAL AGREEMENT AMONG THE CITIES OF TIGARD, TUALATIN, BEAVERTON, WILSONVILLE AND WASHINGTON COUNTY, OREGON, FOR THE DESIGN OF COMMUTER RAIL STATIONS.**

WHEREAS, the City of Tigard, the City of Tualatin, the City of Beaverton and the City of Wilsonville, ("Cities") and Washington County ("County") are all political subdivisions of the State of Oregon; and

WHEREAS, the Cities and County named above endorse the Wilsonville to Beaverton Commuter Rail Project based on the anticipated benefits to the transportation system and support the final design and engineering efforts leading to the construction of the project; and

WHEREAS, the parties entered into an Intergovernmental Agreement in November of 2002 to provide better design coordination and design consistency between the Cities and the County; and


WHEREAS, Amendment No. 1 provides for City Coordination of utility relocation required to accommodate the construction of Commuter Rail improvements.

NOW THEREFORE THE CITY OF WILSONVILLE HEREBY RESOLVES AS FOLLOWS:

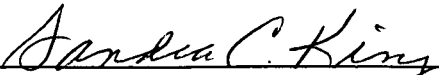
1. The City of Wilsonville City Council authorizes the Mayor to execute the Intergovernmental Agreement, Amendment No. 1 attached hereto as Exhibit "A" and incorporated as if fully set forth herein, between the City of Tigard, the City of Tualatin, the City of Beaverton and the City of Wilsonville, and Washington County.

2. This resolution is effective upon adoption.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 21st day of November, 2005, and filed with the Wilsonville City Recorder this same date.

  
\_\_\_\_\_  
CHARLOTTE LEHAN, MAYOR

ATTEST:

  
\_\_\_\_\_  
Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Holt	Excused
Councilor Knapp	Yes
Councilor Ripple	Yes

Attachments: First Amendment Urban Services Intergovernmental Agreement

**URBAN SERVICES INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE CITY OF TIGARD, THE CITY OF TUALATIN, THE CITY OF BEAVERTON,  
THE CITY OF WILSONVILLE AND WASHINGTON COUNTY, OREGON**

**FIRST AMENDMENT**

THIS First Amendment to the URBAN SERVICES INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into as of the last date shown on the signature pages, and is between the City of Tigard, the City of Tualatin, the City of Beaverton, the City of Wilsonville (the "Cities") and Washington County, Oregon ("County"), (collectively, the "Parties"), all political subdivisions of the State of Oregon. As of the effective date, this First Amendment shall supersede and replace the Urban Services Intergovernmental Agreement entered into by and between the Parties on or about December 24, 2002.

**RECITALS**

1. ORS 190.007 provides for the furthering of economy and efficiency in local government by intergovernmental cooperation.
2. The Parties desire to enter into this Agreement for the purpose of allowing better coordination and design consistency between the Cities and the County in response to the design of station areas for the Washington County - Wilsonville to Beaverton Commuter Rail Project ("Project").
3. The Project is defined in the Washington County Commuter Rail Preliminary Engineering documents prepared by URS Consultants and dated February 2002.
4. The Project includes physical improvements to be located in each of the Cities that will require local land use review and permitting, and relocation of public and private utilities. The Project will be more specifically defined during the final engineering and design phase.
5. Cities and County coordinated during the preliminary engineering and design phase of the Project to reach a consensus on the fundamental design features of the physical improvements of the Project. This consensus represents a common understanding between the Cities and County of the Project improvements to be constructed in the Cities and any potential impacts associated with the Project.
6. The Parties have unanimously endorsed the Wilsonville to Beaverton Commuter Rail Project based on the anticipated benefits to the transportation system and support the final design and engineering efforts that will lead to construction of the Project. The Wilsonville to Beaverton Commuter Rail Project is recognized and included in the Transportation System Plan of each City.
7. It would be to the benefit of the Cities and the County to coordinate planning and permit review for the development of the Project to insure that the Project provides similar station area improvements in each of the Cities based on a consistent set of Project design expectations.

8. It would be to the benefit of the Project to coordinate planning and permit review for the development of the Project to insure that extraordinary expenses do not result from the local review process that could impact the financial feasibility of the Project.

9. It would be to the benefit of the Project to coordinate the relocation of public and private utilities necessary for the construction of the Project to insure that extraordinary expenses or delays do not result from such required utility relocations.

The Cities Of Tualatin, Tigard, Beaverton, Wilsonville, and Washington County agree as follows:

## AGREEMENT

### AREA AFFECTED BY THIS AGREEMENT

1. The area affected by this Agreement is the Project property subject to local land use review and permitting by the Cities that is generally described as the Commuter Rail station areas, including station platforms, park-and-ride lots, operating base and related facilities, as well as right-of-way and easements subject to the jurisdiction of the Cities within which utility relocations will be required for the Project. This property will be further defined as a result of the final engineering and design effort for the Project.

### II. PROJECT DEVELOPMENT PRINCIPLES

- a. Insofar as practical, Cities shall be treated equally in terms of type and design of station area Project improvements within each of the Cities' jurisdictional boundaries. Station area Project improvements shall be consistent with a common set of design guidelines (as shown in Exhibit A) for station areas established by the Project. Project improvements may recognize design variations included in local design guidelines or standards. However, any incremental cost attributable to physical improvements or modifications that is greater than the cost in the design guidelines (Exhibit A), or as agreed to through the process set forth in III c. will be the financial responsibility of the permitting City.
- b. A Memorandum of Understanding ("MOU") between the Commuter Rail Project Manager and the City designee will be prepared outlining the details for costs, construction, roles and responsibilities for station area and any off-site improvements. This MOU will be prepared and agreed to prior to filing a formal land use application with the applicable City.
- c. Efforts shall be made through coordination between the Cities and County to protect the Project from extraordinary expenses resulting from local land use reviews and approvals that may impact the financial feasibility of the Project.

### III. DEVELOPMENT PROCESS

- a. County or its designee will be the applicant for all necessary land use applications for submittal to each City. The applicant shall pay all required application fees or as otherwise agreed.
- b. Land use applications submitted to each of the Cities will reflect the Project improvements based on the common understanding of the station area Project design and impacts shown in Exhibit A and including any variations or enhancements agreed to by the City and the Project. A Pre-Application Conference will be held with the particular permitting City prior to application submittal to review the Project design and formalize this common understanding of Commuter Rail facility design within each City. The Pre-Application Conference will also identify permit requirements and an estimated schedule for review of land use applications. During the local project review process, the City in which the application is being processed will assign a staff liaison to the Commuter Rail Project who will act as the primary point of contact between that City and the permit applicant.
- c. During City's review of land use applications, design issues and/or impacts that extend beyond the Station Area Project Design Guidelines shall be immediately brought to the attention of the County or its designee. County or its designee and City shall meet to evaluate the effects of the City-initiated design changes on the design and financial feasibility of the Project. If design changes can be made that are consistent with the design guidelines of Exhibit A and the Project Development Principles (Section II) of this Agreement, such changes shall be incorporated into the Project design and land use application.
- d. If a determination of consistency with the Exhibit A cannot be reached, the provisions of the Dispute Resolution section (Section V) of this Agreement shall be followed.

#### IV. RELOCATION OF UTILITIES

- a. The Cities, at the Project's expense unless otherwise apportioned in this Agreement, shall relocate in-kind, cause to be relocated in-kind, or assist in the relocation in-kind of all of their respective City-owned conduits, lines, poles, mains, pipes, and other utilities and facilities, whether located within the public right-of-way or not, as required by the Project. The Parties understand that relocation in-kind does not include betterment(s) of the existing facilities. The relocation plans and specifications shall include all relocations necessary to conform facilities to the Project. The Cities shall endeavor to conduct this relocation work in accordance with the Projects' construction schedule.
- b. The Cities shall use their best efforts to cause relocation of privately owned utilities without cost to the Cities, the County or the Project. The Cities shall cause the owners of privately owned utility conduits, lines, poles, mains, pipes and other facilities in or on City rights-of-way, easements and/or property to relocate their facilities at the expense of said privately owned utility as necessary to conform to the Project, to the extent the Cities have the power to do so. The Cities shall endeavor to cause this relocation work to be accomplished in accordance with Project's construction schedule. However, if any

City does not have the legal authority or power to cause such relocation, the Project Manager, without cost to such City, shall effect relocation of existing privately owned utility facilities as necessary to conform utilities or facilities to the plans for the Project

- c. The Cities and TriMet Project Manager shall participate in review of utility relocation plans submitted by private utilities for the alignment area. The Cities shall also allow the Project Manager's engineers or inspectors or consulting engineers or inspectors to inspect any relocation of utility conduits, lines, poles, mains, pipes, and other facilities in order to determine whether they have been relocated in accordance with the plans of the Project.

#### V. DISPUTE RESOLUTION

In case of a dispute over the provisions of this Agreement, the one or more Cities and County staff for each entity will immediately refer the dispute to the respective City Manager or Mayor and the County Administrator for resolution. If the City Manager or Mayor and the County Administrator cannot resolve the dispute within 30 days, it shall be forwarded to the Commuter Rail Steering Committee for resolution (the Commuter Rail Steering Committee is composed of elected representatives from the four cities, Washington County and the TriMet General Manager). If the Commuter Rail Steering Committee is unable to resolve the dispute within 30 days, the dispute shall be subject to binding arbitration under ORS 190.710-190.800 except that the Parties can each select an arbitrator and those arbitrators shall select a third arbitrator. The third arbitrator shall hear the matter. Any decision resulting from this dispute resolution process shall not be a land use decision but may be incorporated into a final land-use decision by the City. The cost of the arbitrator shall be borne equally by the Parties to the dispute. Each party shall be solely responsible for its cost of legal representation, if any.

#### VI. NOTICE OF APPLICATIONS

Cities shall give notice to County or its designee of all claims, land use applications, hearings, decisions and any appeals of those decisions made under the authority of this Agreement. County or its designee shall forward to other signatories to this Agreement copies of all claims, land use applications, hearings, decisions and any appeals of those decisions made under authority of this Agreement.

#### VII. TERM OF AGREEMENT

The term of this Agreement shall be from December 24, 2002 through December 31, 2008. This Agreement may be extended for a subsequent two (2) year term upon mutual written agreement of the Parties. This Agreement may be terminated by any party upon ninety (90) days written notice to the other parties.

#### VIII. COMPLIANCE WITH LAWS

Each party shall comply with all applicable federal, state and local ordinances, statutes, and regulations that are applicable to the services provided under this Agreement

**IX. DEBT LIMITATION**

This Agreement is expressly subject to the debt limitation of Oregon Counties as set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated therefor.

**X. HOLD HARMLESS**

Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.

**XI. ASSIGNMENT**

Each of the Parties understand that the County shall have the right to assign this Agreement without the Cities' consent to an entity that designs, constructs, and/or operates passenger rail service in this corridor.

**XII. MODIFICATION**

Modifications to this Agreement are valid only if made in writing and signed by all Parties. This writing is intended as the final expression of the agreement between the Parties with respect to the terms and as a complete and exclusive statement of the terms of the Agreement.

In WITNESS THEREOF, the Parties have executed this Intergovernmental Agreement on the dates set below their signatures.

**WASHINGTON COUNTY, OREGON**

**CITY OF TUALATIN, OREGON**

By: \_\_\_\_\_  
Tom Brian, Chair  
Washington County  
Board of Commissioners

By: \_\_\_\_\_  
Lou Ogden, Mayor  
City of Tualatin

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

Approved as to form:

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

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

**CITY OF BEAVERTON, OREGON**

By: \_\_\_\_\_  
Rob Drake, Mayor  
City of Beaverton

Date: \_\_\_\_\_

Approved as to form:

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

**CITY OF TIGARD, OREGON**

By: \_\_\_\_\_  
Jim Griffith, Mayor  
City of Tigard

Date: \_\_\_\_\_

Approved as to form:

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

**CITY OF WILSONVILLE, OREGON**

By: \_\_\_\_\_  
Charlotte Lehan, Mayor  
City of Wilsonville

Date: \_\_\_\_\_

Approved as to form:

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



**URBAN SERVICES INTERGOVERNMENTAL AGREEMENT****BETWEEN****THE CITY OF TIGARD, THE CITY OF TUALATIN, THE CITY OF BEAVERTON,  
THE CITY OF WILSONVILLE AND WASHINGTON COUNTY, OREGON****RECITALS**

1. This intergovernmental agreement, hereinafter Agreement, is entered into on the last date shown on the signature pages by City of Tigard, the City of Tualatin, the City of Beaverton and the City of Wilsonville, hereinafter "Cities," and Washington County, hereinafter "County," all political subdivisions of the State of Oregon; and
2. ORS 190.007 provides for the furthering of economy and efficiency in local government by intergovernmental cooperation.
3. The parties desire to enter into this Agreement for the purpose of allowing better coordination and design consistency between the Cities and the County in response to the design of station areas for the Washington County - Wilsonville to Beaverton Commuter Rail Project, hereinafter "Project".
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THE CITIES OF TUALATIN, TIGARD, BEAVERTON, WILSONVILLE, AND WASHINGTON COUNTY AGREE AS FOLLOWS:

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II. PROJECT DEVELOPMENT PRINCIPLES

- a. Insofar as practical, Cities shall be treated equally in terms of type and design of station area Project improvements within each of the Cities' jurisdictional boundaries. Station area Project improvements shall be consistent with a common set of design guidelines (as shown in Exhibit A) for station areas established by the Project. Project improvements may recognize design variations included in local design guidelines or standards. However, any incremental cost attributable to physical improvements or modifications that is greater than the cost in the design guidelines (Exhibit A), or as agreed to through the process set forth in III c. will be the financial responsibility of the permitting city.
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- d. If a determination of consistency with the Exhibit A cannot be reached, the provisions of the Dispute Resolution section (Section IV) of this Agreement shall be followed.

#### IV. DISPUTE RESOLUTION

In case of a dispute over the provisions of this Agreement, the one or more Cities and County staff for each entity will immediately refer the dispute to the respective City Manager or Mayor and the County Administrator for resolution. If the City Manager or Mayor and the County Administrator cannot resolve the dispute within 30 days, it shall be forwarded to the Commuter Rail Steering Committee for resolution (the Commuter Rail Steering Committee is composed of elected representatives from the four cities, Washington County and the Tri-Met General Manager). If the Commuter Rail Steering Committee is unable to resolve the dispute within 30 days, the dispute shall be subject to binding arbitration under ORS 190.710-190.800 except that the parties can each select an arbitrator and those arbitrators shall select a third arbitrator. The third arbitrator shall hear the matter. Any decision resulting from this dispute resolution process shall not be a land use decision but may be incorporated into a final land-use decision by the City. The cost of the arbitrator shall be borne equally by the parties to the dispute. Each party shall be solely responsible for its cost of legal representation, if any.

#### V. NOTICE OF APPLICATIONS

Cities shall give notice to County or its designee of all claims, land use applications, hearings, decisions and any appeals of those decisions made under the authority of this Agreement. County or its designee shall forward to other signatories to this agreement copies of all claims, land use applications, hearings, decisions and any appeals of those decisions made under authority of this Agreement.

#### VI. TERM OF AGREEMENT

This Agreement shall be effective upon final signature and shall remain in effect for three (3) years. The Agreement may be extended for a subsequent two (2) year term upon mutual agreement of the parties. This Agreement may be terminated by any party upon ninety (90) days written notice to the other parties.

VII. COMPLIANCE WITH LAWS

Each party shall comply with all applicable federal, state and local ordinances, statutes, and regulations that are applicable to the services provided under this Agreement.

VIII. DEBT LIMITATION

This Agreement is expressly subject to the debt limitation of Oregon Counties as set forth in Article XI, Section 10 of the Oregon Constitution and is contingent upon funds being appropriated therefor.

IX. HOLD HARMLESS

Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts of omissions of that party.

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Each of the parties understand that the County shall have the right to assign this Agreement without the Cities consent to an entity that designs, constructs, and/or operates passenger rail service in this corridor.

XI. MODIFICATION

Modifications to this Agreement are valid only if made in writing and signed by all parties. This writing is intended as the final expression of the agreement between the parties with respect to the terms and as a complete and exclusive statement of the terms of the Agreement.

In WITNESS THEREOF, the parties have executed this Intergovernmental Agreement on the date set below their signatures.

WASHINGTON COUNTY, OREGON

CITY OF WILSONVILLE, OREGON

By: John Leeper for  
Tom Brian, Chair  
Washington County  
Board of Commissioners

By: Charlotte Lehan  
Charlotte Lehan, Mayor  
City of Wilsonville

Date: 12/24/02

Date: Nov. 6, 2002

Approved as to form:

Approved as to form:

Keith Skovoda  
County Counsel  
APPROVED WASHINGTON COUNTY  
BOARD OF COMMISSIONERS

Michael E. Philby  
City Attorney

MINUTE ORDER # 02-387

DATE 11/26/02

BY Barbara Hejtmancik