



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

October 24, 2024

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of an Intergovernmental Agreement with the City of Estacada to transfer a portion of S River Mill Road. Total Agreement Value is \$19,260. Funding is through the Community Road Fund. No County General Funds are involved.

| | | | |
|-------------------------------------|---------------------------------------|---------------------------|--------------|
| Previous Board Action/Review | 10/22/2024: Discussion Item at issues | | |
| Performance Clackamas | Build trust with good government | | |
| Counsel Review | Yes | Procurement Review | No |
| Contact Person | Rick Maxwell | Contact Phone | 503-742-4671 |

EXECUTIVE SUMMARY:

There are certain County roads, such as S River Mill Road in Estacada that are wholly, mostly, or partially within various Cities throughout Clackamas County. Fragmented jurisdiction over these roads often results in differing road maintenance activities and confusion by the public as to which agency is responsible for the operation and maintenance of the roads. With the intent of eliminating confusion to the public and to improve the efficiencies of maintenance and public service a jurisdictional transfer is needed. By Resolution No. 2024-019, the Council of the City of Estacada requested the County to undertake procedures to transfer the jurisdiction of S River Mill Road to the City.

The intergovernmental agreement (IGA), which the City has approved, sets forth the process for the City to assume exclusive jurisdiction over S River Mill Road containing approximately 49,115 square feet of Right-of-Way. The IGA also formalizes an agreement to provide funds to the City in the amount of \$19,260 which is equal to the cost of a 2" asphalt overlay. These funds are payable to the City within 60 days of the effective date of this agreement. Once the

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jurisdiction is transferred, the City becomes the "Road Authority" responsible for all maintenance, permitting and road standard activities.

County staff have been negotiating with the City of Estacada and they have reached this agreement for the transfer for an approximately 1,056 foot long section of S River Mill Road.

RECOMMENDATION:

Staff respectfully requests that the Board approve the attached IGA between Clackamas County and the City of Estacada related to the transfer of jurisdiction of S River Mill Road.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ESTACADA AND CLACKAMAS COUNTY RELATED TO ROAD MAINTENANCE AND PERMITTING AUTHORITY ON A PORTION OF SE RIVER MILL ROAD

This agreement (the “Agreement”) is made on the date all required signatures have been obtained, between the City of Estacada (“CITY”), a municipal corporation, and Clackamas County (“COUNTY”), a political subdivision of the State of Oregon, pursuant to ORS Chapter 190 (Intergovernmental Cooperation), collectively referred to as the “PARTIES” and each a “PARTY.”

RECITALS

WHEREAS, ORS Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform, including the authority to perform as the “Road Authority” related to maintenance and permitting responsibilities for roads;

WHEREAS, portions of SE River Mill Road are a County Road, no. 923, as defined in ORS 368.001, lying both inside and outside of the boundaries of the City.

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of a portion of SE River Mill Road, measuring approximately 1,056 feet in length and 49,115 square feet in area, as more particularly described in Exhibit “A” and depicted in Exhibit “B” which are attached hereto and incorporated herein (“SE River Mill Road”).

WHEREAS, transfer of responsibility with regards to SE River Mill Road will lead to efficient and consistent road maintenance activities and reduce any confusion on the part of the public as to which Party is responsible for the condition and maintenance of SE River Mill Road which primarily serves the residents of the City;

WHEREAS, the Parties agree that each will consider the full transfer of jurisdiction of SE River Mill Road to the City once SE River Mill Road is entirely annexed into the City’s boundary, and that this Agreement will no longer be necessary if SE River Mill Road is completely annexed into the City; and

WHEREAS, it is the intent of the Parties that the County transfer as much of its responsibility under ORS 368 with regards to SE River Mill Road as may be allowed under state law in order to grant the City control of SE River Mill Road prior to the annexation and potential jurisdictional transfer of SE River Mill Road.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Term.** This Agreement shall be effective on the last day both Parties have signed the Agreement as indicated below. This Agreement shall expire automatically at the time SE River Mill Road is annexed into the City and the City assumes jurisdiction of SE River Mill Road pursuant to ORS 368 and ORS 373.
2. **Transfer of Authority.**
 - A. Immediately upon the effective date of this Agreement, Responsibility for Road Authority activities (as outlined in Section 3) for SE River Mill Road shall be surrendered to the City pursuant to the terms and conditions of this Agreement. The only portion of SE River Mill Road subject to this Agreement measures approximately 1,056 feet in length and 49,115 square feet in area, as more particularly described in Exhibit "A" and depicted in Exhibit "B".
 - B. To facilitate the performance of responsibilities under this Agreement, the City hereby accepts responsibility for Road Authority activities (as outlined in Sections 3 and 4) for SE River Mill Road, as described herein.
 - C. The City shall be solely responsible for all costs associated with the Road Authority activities assumed by the City as set forth in this Agreement.
3. **Road Authority Obligations.** For purposes of this Agreement, the Road Authority activities include those activities the City deems necessary in accordance with City standards, including but not necessarily limited to, the following:
 - A. Construction and reconstruction (including capital improvements);
 - B. Improvement or repair, and maintenance;
 - C. Maintenance and repair of related facilities within the roadway, including but not limited to storm water drainage facilities, traffic control devices, street lights and roadside barriers;
 - D. Timely repair or mitigation of known hazards to the road users;
 - E. Issuance of permits for work or the establishment of roadway standards on SE River Mill Road; and
 - F. All other responsibilities the County may have under ORS 368 with regards to SE River Mill Road which may be assumed by the City under state law.

4. **Maintenance Standard.** Any maintenance on SE River Mill Road required by this Agreement shall be carried out in a manner that is similar to other roads with similar features, function, and characteristics under the City's jurisdiction.

5. **County Responsibilities.**
 - A. After such time that SE River Mill Road has been annexed into the City and City initiates the steps to acquire full and absolute jurisdiction of SE River Mill Road, the County shall cooperate with the City in the transfer effort, including but not limited hearing and deciding on additional procedures necessary as set forth in ORS 373.270 to surrender jurisdiction over SE River Mill Road to the City.
 - B. The County shall contribute to the City the sum of \$19,260, which is equivalent to the cost of the following improvement: a 2-inch asphalt overlay on the portion of SE River Mill identified in the exhibits attached to this Agreement. The sum of \$19,260 identified in this paragraph shall be payable to the City within 60 days of the effective date of this Agreement.

6. **City Responsibilities.**
 - A. After such time that the City has annexed SE River Mill Road into the City, the City shall carry out any additional procedures necessary, as set forth in ORS 373.270, for purposes of finalizing the transfer and acquiring full and absolute jurisdiction of SE River Mill Road. The City shall not unreasonably delay or withhold its consent to acquire SE River Mill Road, and shall complete the process to finalize the transfer within 90 days from the date of any County decision on the matter.
 - B. The City agrees to assume full and absolute jurisdiction over the portion of SE River Mill Road identified in the exhibits attached to this Agreement, if the governing body of the City and the governing body of the County both determine that it is necessary, expedient or in the best interests of their respective jurisdictions to complete the transfer described herein.

7. **Termination.**
 - A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
 - B. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
 - C. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

8. **Indemnification.**
 - A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the City, its officers, elected officials, agents and employees from and against all costs, losses,

damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control. Without limiting the foregoing, the Parties intend that the County shall incur no liability with regards to the City's actions or omissions in carrying out the Road Authority activities on SE River Mill Road and the City agrees that its obligation to indemnify, save harmless and defend the County specifically applies to the Road Authority activities outlined in Section 3.

9. General Provisions

- A. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
- E. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent

upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.

- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.

- J. **No Third-Party Beneficiary.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.

- K. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.

- L. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

M. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.

N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

CLACKAMAS COUNTY

Chair

Date

Recording Secretary

CITY OF ESTACADA

Melanie K Wagner

City Manager

Sept. 24, 2024

Date

Smain

Recording Secretary

Exhibit "A"

SE River Mill Road Transfer of Jurisdiction

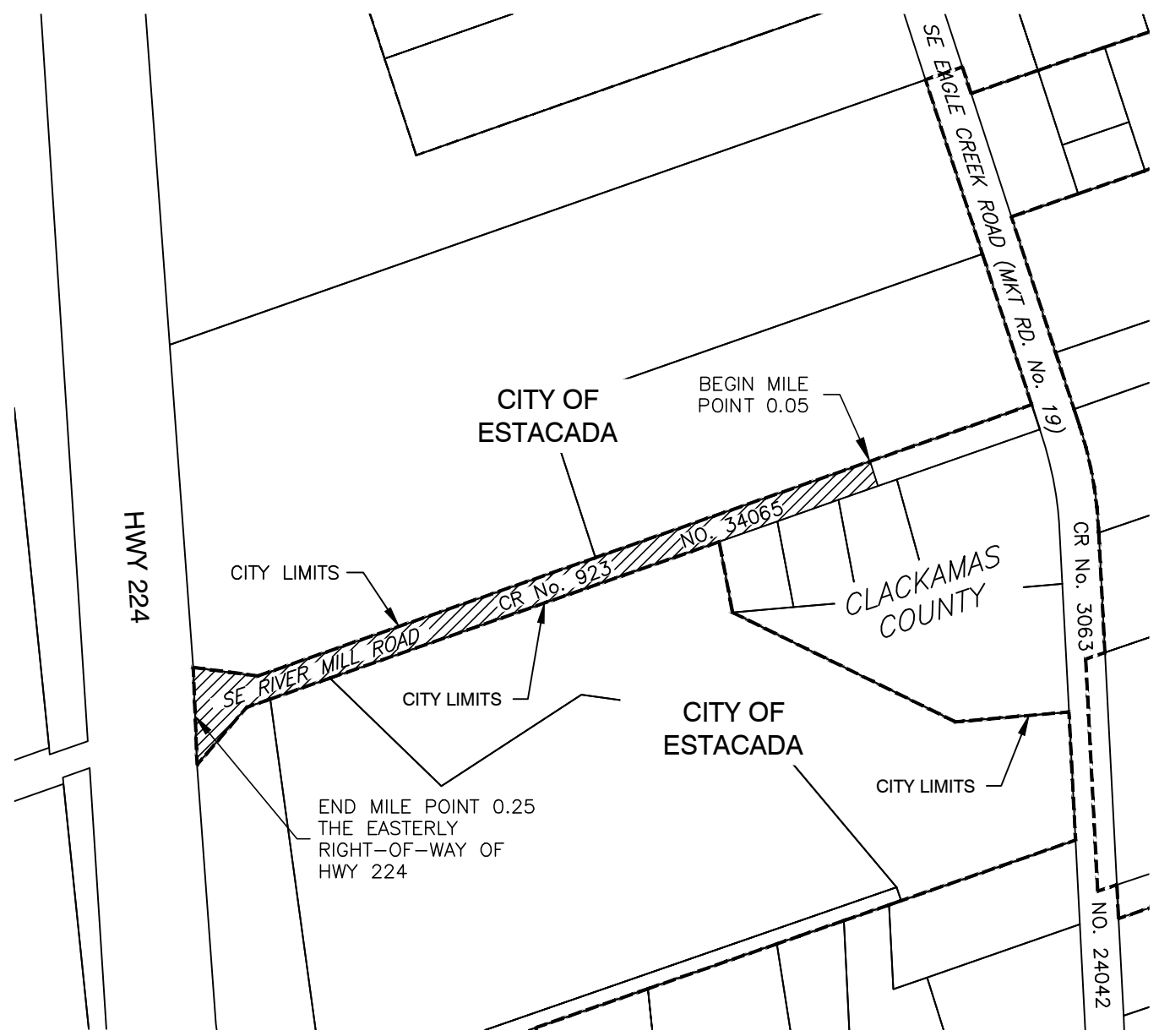
Clackamas County to City of Estacada

Description


All that portion of SE River Mill Road, County Road No. 923, Department of Transportation and Development maintenance No. 34065; Situated in the SE 1/4 of Section 17, T. 3 S., R. 4 E., W.M., lying west of and between (mile point 0.05) and east of easterly right-of-way of Oregon State Highway 224 (mile point 0.25), as shown in Exhibit "B", attached hereto and being a part of this description.

Being approximately 1,056 feet long. Contains 49,115 square feet, more or less.

EXHIBIT "B"



LEGEND

 TRANSFERRED AREA
49,115 Sq. Ft.

LOCATED IN SECTION IN THE SE 1/4 OF
SECTION 17, T. 3 S., R. 4 E., W.M.
CLACKAMAS COUNTY, OREGON

RESOLUTION 2024 - 019

A RESOLUTION REQUESTING CLACKAMAS COUNTY SURRENDER JURISDICTION OVER A CERTAIN PORTION OF COUNTY ROAD AS DESCRIBED HEREIN.

WHEREAS, Oregon Revised Statutes, Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform; and

WHEREAS, Oregon Revised Statutes, Section 373.270 states that jurisdiction over a county road within a city may be transferred whenever the county governing body deems it necessary, expedient or for the best interest of the county to surrender jurisdiction over any county road or portion thereof within the corporate limits of any city; and the governing body of the city deems it necessary or expedient and for the best interests of the city to acquire jurisdiction over the county road or part thereof to the same extent as it has over other public streets and alleys of the city; and

WHEREAS, portions of SE River Mill Road are a County Road, no. 923, as defined in ORS 368.001, lying both inside and outside of the boundaries of the City; and

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of a portion of SE River Mill Road, measuring approximately 1,056 feet in length and 49,115 square feet in area, as more particularly described in Exhibit "A" and depicted in Exhibit "B" which are attached hereto and incorporated herein ("SE River Mill Road").

WHEREAS, the City wishes to accept exclusive jurisdiction over the portions of SE River Mill Rd described and depicted in the attached Exhibit(s), the terms of which are addressed in separate intergovernmental agreements between the parties; and

WHEREAS, transfer of responsibility with regards to SE River Mill Road will lead to efficient and consistent road maintenance activities and reduce any confusion on the part of the public as to which Party is responsible for the condition and maintenance of SE River Mill Road which primarily serves the residents of the City;

WHEREAS, this transfer would give the City jurisdictional control of the portions of SE River Mill Rd, allowing the developers to work directly with the City on design standards for the required street improvements; and

WHEREAS, the Parties agree that each will consider the full transfer of jurisdiction of SE River Mill Road to the City once SE River Mill Road is entirely annexed into the City's boundary, and that this Agreement will no longer be necessary if SE River Mill Road is completely annexed into the City; and

WHEREAS, it is the intent of the Parties that the County transfer as much of its responsibility under ORS 368 with regards to SE River Mill Road as may be allowed under state law in order to grant the City control of SE River Mill Road prior to the annexation and potential jurisdictional transfer of SE River Mill Road.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Estacada, Oregon, that by virtue of the foregoing and pursuant to ORS 373.270, the Estacada City Council hereby requests that Clackamas County undertake the procedure for transferring jurisdiction to the City of Estacada over portions of SE River Mill Rd as shown on the attached Exhibit(s).

Passed and effective this 23rd day of September, 2024.


Sean Drinkwine, Mayor

ATTEST:

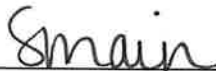

Sadie Main, City Recorder

Exhibit "A"

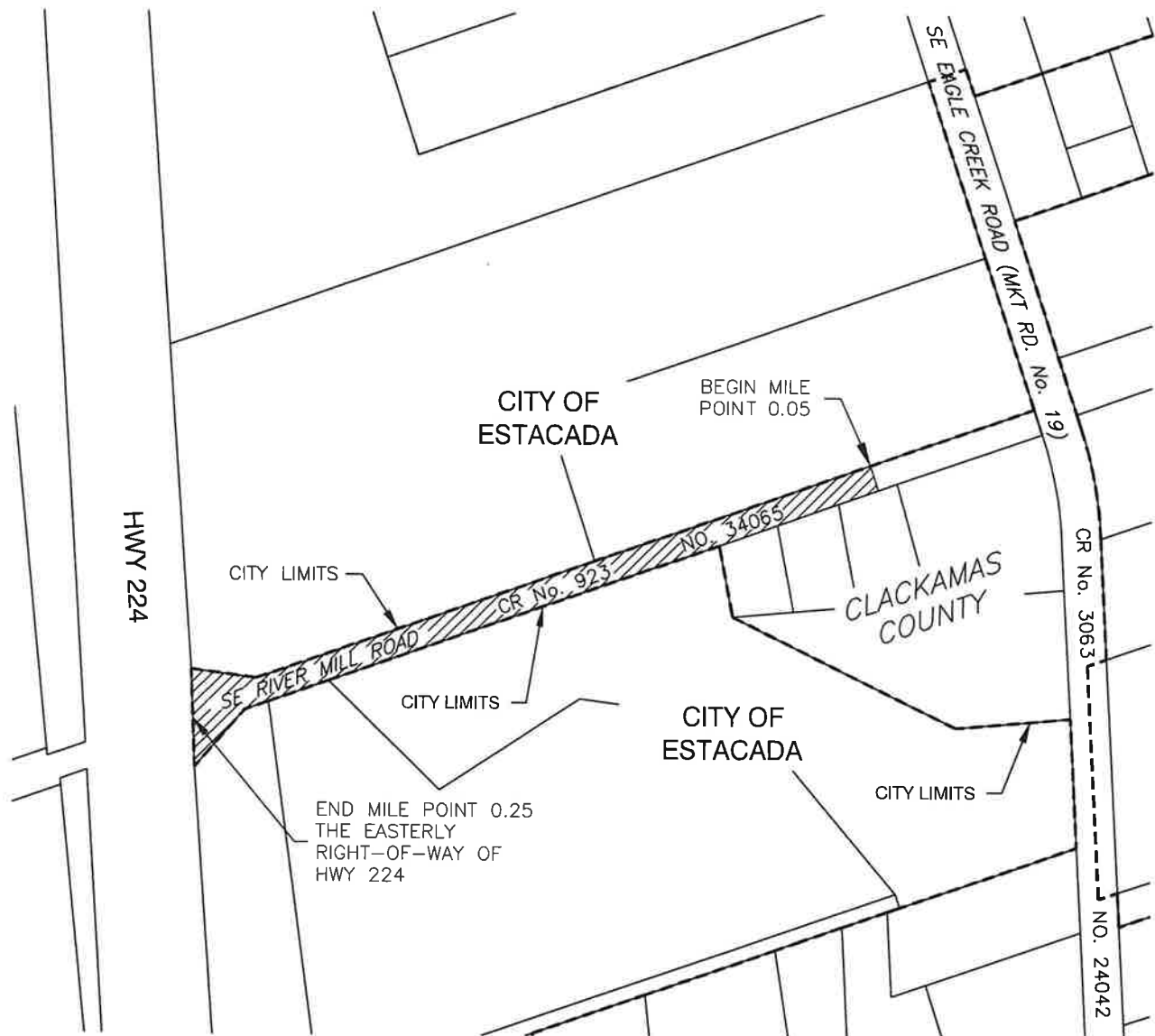
SE River Mill Road Transfer of Jurisdiction
Clackamas County to City of Estacada

Description

All that portion of SE River Mill Road, County Road No. 923, Department of Transportation and Development maintenance No. 34065; Situated in the SE 1/4 of Section 17, T. 3 S., R. 4 E., W.M., lying west of and between (mile point 0.05) and east of easterly right-of-way of Oregon State Highway 224 (mile point 0.25), as shown in Exhibit "B", attached hereto and being a part of this description.

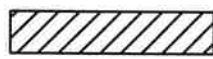
Being approximately 1,056 feet long. Contains 49,115 square feet, more or less.

EXHIBIT "B"



1"=250'

LEGEND



TRANSFERRED AREA
49,115 Sq. Ft.

LOCATED IN SECTION IN THE SE 1/4 OF
SECTION 17, T. 3 S., R. 4 E., W.M.
CLACKAMAS COUNTY, OREGON

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



BY: R. MAXWELL DATE: 8/7/2024
JURISDICTIONAL TRANSFER
SE RIVER MILL ROAD
COUNTY ROAD NO. 923

SHEET
1 OF 1