



DAN JOHNSON
DIRECTOR

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

April 20, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of an Intergovernmental Agreement with the City of Oregon City to transfer a portion of South Caufield Road. Agreement value is \$94,845. Funding through Community Road Fund. No County General Funds are involved.

Previous Board Action/Review	4/18/2023: Discussion Item at issues		
Performance Clackamas	1. 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 Caufield Road in Oregon City, 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. The IGA sets forth the process for the City to assume exclusive jurisdiction over S Caufield Road, which contains approximately 105,790 square feet of Right-of-Way. The proposed IGA also formalizes an agreement to provide funds to the City of Oregon City in the amount of \$98,845, which is equal to the cost of a 2" asphalt overlay and rebuilding or installing five (5) curb ramps to meet ADA requirements. Payment of these funds are contingent upon the City finalizing the jurisdictional transfer process. Once jurisdiction is transferred, the City becomes the "Road Authority" responsible for all maintenance, permitting and road standard activities.

For Filing Use Only

County staff have been negotiating with the City of Oregon City and they have reached this agreement for the transfer for an approximately 2,112 foot long section of S Caufield Road.

RECOMMENDATION:

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

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF OREGON CITY
AND CLACKAMAS COUNTY RELATED TO THE TRANSFER OF A PORTION OF
SOUTH CAUFIELD ROAD**

This agreement (the “Agreement”) is made on the date all required signatures have been obtained, between the City of Oregon City (“CITY”), a municipal corporation of the State of Oregon, 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;

WHEREAS, the portion of S. Caufield Rd. located entirely within the boundaries of the City is a County Road, as defined in ORS 368.001 (“Caufield Rd.”);

WHEREAS, Caufield Rd. is described in Exhibit “A” and depicted in Exhibit “B,” all of the exhibit of which are attached hereto and incorporated herein;

WHEREAS, the Parties agree that the City is best suited to assume primary responsibility for maintenance and permitting of Caufield Rd.;

WHEREAS, ORS 373.270 provides a procedure whereby a county may transfer jurisdiction over any county roads within a city to the City, and the Parties desire to pursue a transfer of jurisdiction of Caufield Rd. pursuant to the terms of this Agreement; and

WHEREAS, the Parties acknowledge that Caufield Rd. should be improved, or the City should be compensated, consistent with the terms of this Agreement at, or prior to, the completion of the full transfer pursuant to ORS 373.270.

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 upon execution and shall expire automatically at the time the City assumes jurisdiction of Caufield Rd. pursuant to ORS 373.270.
2. **City Responsibilities.**
 - A. The City shall give notice and shall carry out those procedures set forth in ORS 373.270 to determine whether it is necessary, expedient or for the best interests of the City to assume jurisdiction over Caufield Rd.

- B. The City agrees to assume full and absolute jurisdiction over Caufield Rd. in the event the governing body of the City and the governing body of the County both determine that it is necessary, expedient or for the best interests of their respective jurisdictions to complete the transfers described herein.

3. County Responsibilities.

- A. After the City has initiated the process to transfer jurisdiction of Caufield Rd., the County shall carry out those procedures set forth in ORS 373.270 for purposes of finalizing the transfer. The County shall not unreasonably delay or withhold its consent to the transfer of Caufield Rd. and shall complete the process to finalize the transfer within 120 days from the date that the City concludes its hearing and decision on the matter. This obligation shall terminate in the event the governing body of the City fails to find that it is necessary, expedient or for the best interests of the City to surrender jurisdiction over Caufield Rd.
- B. In the event the governing body of the City and the governing body of the County both determine that it is necessary, expedient or for the best interests of their respective jurisdictions to complete the transfers described herein, the County shall provide to the City the sum of \$94,845, which is equivalent to the costs associated with installing 5 ADA-compliant sidewalk ramps and a 2-inch asphalt overlay on the portion of Caufield Rd. identified in the exhibits attached to this Agreement. The sum of \$94,845 identified in this paragraph shall be payable to the City within 30 days of the date that full and absolute jurisdiction over Caufield Rd. is surrendered to the City.

4. Termination.

- A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
- B. Either the County or the City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The County or the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. 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.

- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

5. **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.

6. **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.

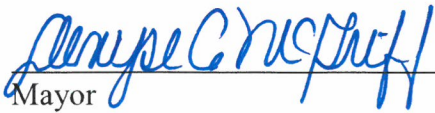
CLACKAMAS COUNTY

Chair

Date


Recording Secretary

CITY OF OREGON CITY



Mayor

MAR 15 2023

Date


Recording Secretary

Exhibit "A"

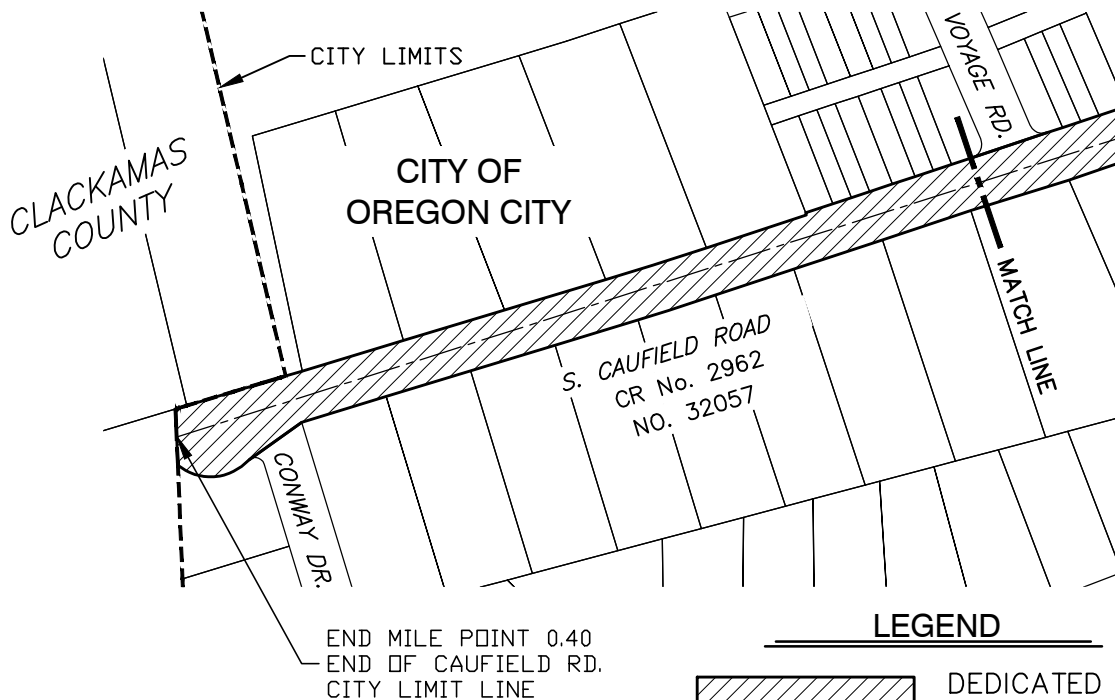
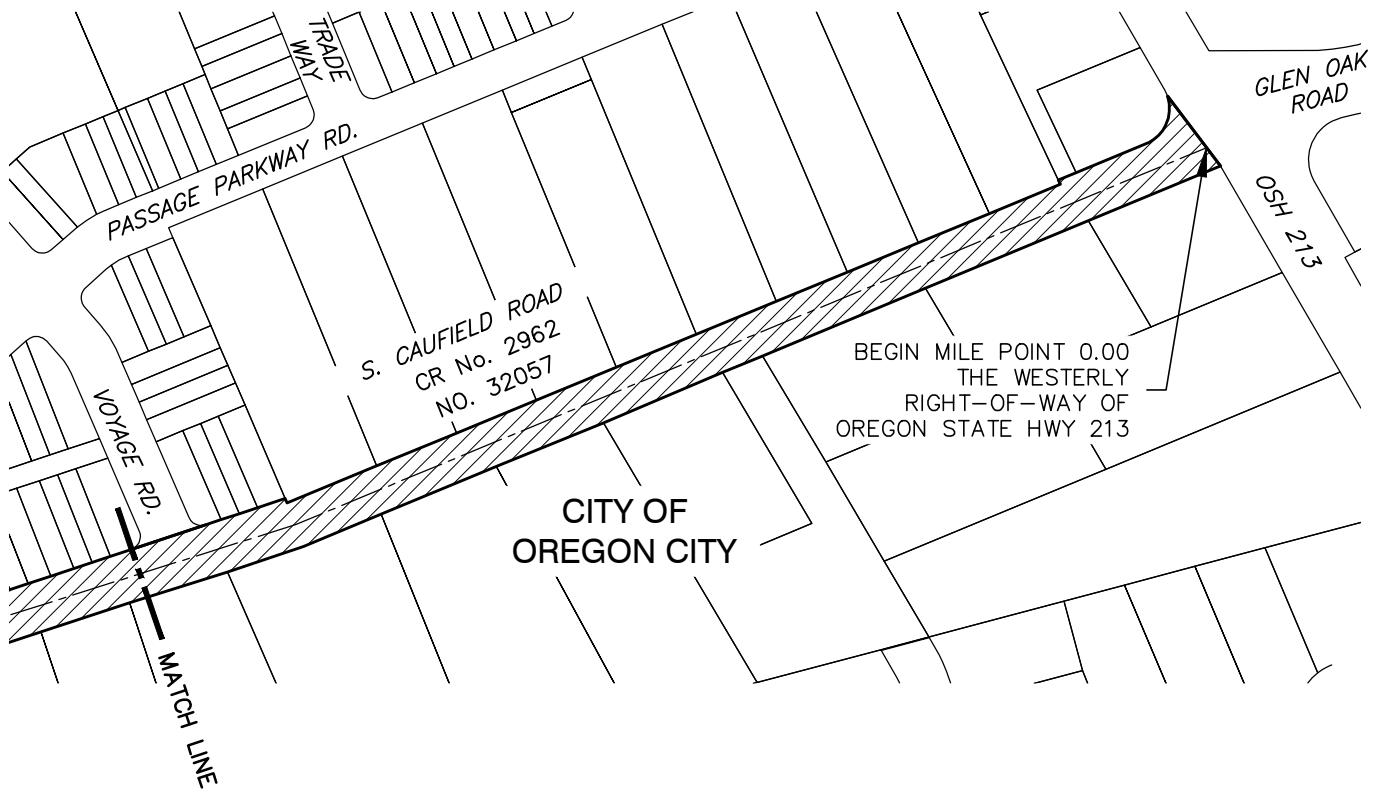
S. Caufield Road Transfer of Jurisdiction
Clackamas County to City of Oregon City

Description

All of S. Caufield Road, County Road No. 2962, Department of Transportation and Development maintenance No. 32057; Situated in the NW 1/4 of Section 16 and the SW 1/4 of Section 17, T. 3 S., R. 2 E., W.M. as shown in Exhibit "B", attached hereto, lying West of the Westerly Right-of-Way of Oregon State Hwy. 213, (mile point 0.00) and the end of S. Caufield Road, also being the Westerly boundary of the City of Oregon City (mile point 0.40), being approximately 2,112 feet long.

Contains 105,790 square feet, more or less.

EXHIBIT "B"



LEGEND

 DEDICATED AREA
105,790 Sq. Ft.

LOCATED IN THE NW 1/4 OF SECTION 16
& THE NE 1/4 OF SECTION 17, T. 3 S., R. 2 E., W.M.
CLACKAMAS COUNTY, OREGON



1' = 200'

 MATCH LINE

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



BY: R. MAXWELL DATE: 1/20/2023

JURISDICTIONAL TRANSFER
S. CAUFIELD ROAD
COUNTY ROAD NO. 2962

SHEET
1 OF 1