



**DAN JOHNSON**  
DIRECTOR

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

September 5, 2024

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 S Forsythe Road. Total value is \$23,590. Funding through Community Road Fund. No County General Funds are involved.**

<b>Previous Board Action/Review</b>	09/03/2024: Discussion Item at issues		
<b>Performance Clackamas</b>	1. Build trust with good government		
<b>Counsel Review</b>	Yes	<b>Procurement Review</b>	No
<b>Contact Person</b>	Rick Maxwell	<b>Contact Phone</b>	503-742-4671

**EXECUTIVE SUMMARY:**

There are certain County roads, such as S Forsythe 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. To eliminate 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 Forsythe Road, which contains approximately 15,720 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 \$23,590, which is equal to the cost of a 2" asphalt overlay. 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 317 foot long section of S Forsythe 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 a portion of S Forsythe 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  
S FORSYTHE 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, S Forsythe Road., currently labeled as county road no. 22014 is a County Road as defined under ORS 368.001 (“S Forsythe Road”) that is wholly within the boundary of the City, and as fully described in Exhibit “A” and depicted in Exhibit “B,” attached hereto and incorporated herein;

WHEREAS, the Parties agree that the City is best suited to acquire full and absolute jurisdiction of S Forsythe Road, including for maintenance and permitting purpose;

WHEREAS, ORS 373.270 provides a procedure whereby a county may transfer full and absolute jurisdiction over any County Road within a city to a city through a surrendering of said jurisdiction by the county and through an acceptance of said jurisdiction by a city;

WHEREAS, the Parties desire to pursue a transfer of S Forsythe Road under pursuant to ORS 373.270, and acknowledge that S Forsythe Road should be improved, or the City should be compensated, consistent with the terms of this Agreement at, or prior to, the completion of said transfer.

**AGREEMENT**

NOW, THEREFORE, Parties hereby agree as follows:

1. **Term.** This Agreement shall be effective on the last day of signature by a Party indicated below and shall expire automatically at the time the City accepts jurisdiction of S Forsythe Road 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 acquire full and absolute jurisdiction over S Forsythe Road.

- B. The City accepts full and absolute jurisdiction over S Forsythe Road under ORS 373.270 in the event that the governing body of the City and the governing body of the County, 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. Once the City initiates the process to accept the jurisdiction of S Forsythe Road, the County shall carry out those procedures set forth in ORS 373.270 for purposes of surrendering said jurisdiction to the City. The County shall not unreasonably delay or withhold its consent to the transfer of S Forsythe Road 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 S Forsythe Road.
- 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 will make a one-time payment to the City in the sum of \$23,590, which is equivalent to the costs associated with the construction of a 2-inch asphalt overlay on the portion of S Forsythe Road identified in the exhibits attached to this Agreement. The sum of \$23,590 identified in this paragraph shall be payable to the City within 30 days of the date that full and absolute jurisdiction over S Forsythe Road 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. A 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**

Anthony J. Konkol, III  
Anthony J. Konkol, III (Jul 19, 2024 10:45 PDT)

\_\_\_\_\_  
City Manager  
Jul 19, 2024

\_\_\_\_\_  
Date

Evan Lee  
Evan Lee (Jul 19, 2024 10:59 PDT)

\_\_\_\_\_  
Recording Secretary

Exhibit "A"

S Forsythe Road Transfer of Jurisdiction  
Clackamas County to City of Oregon City

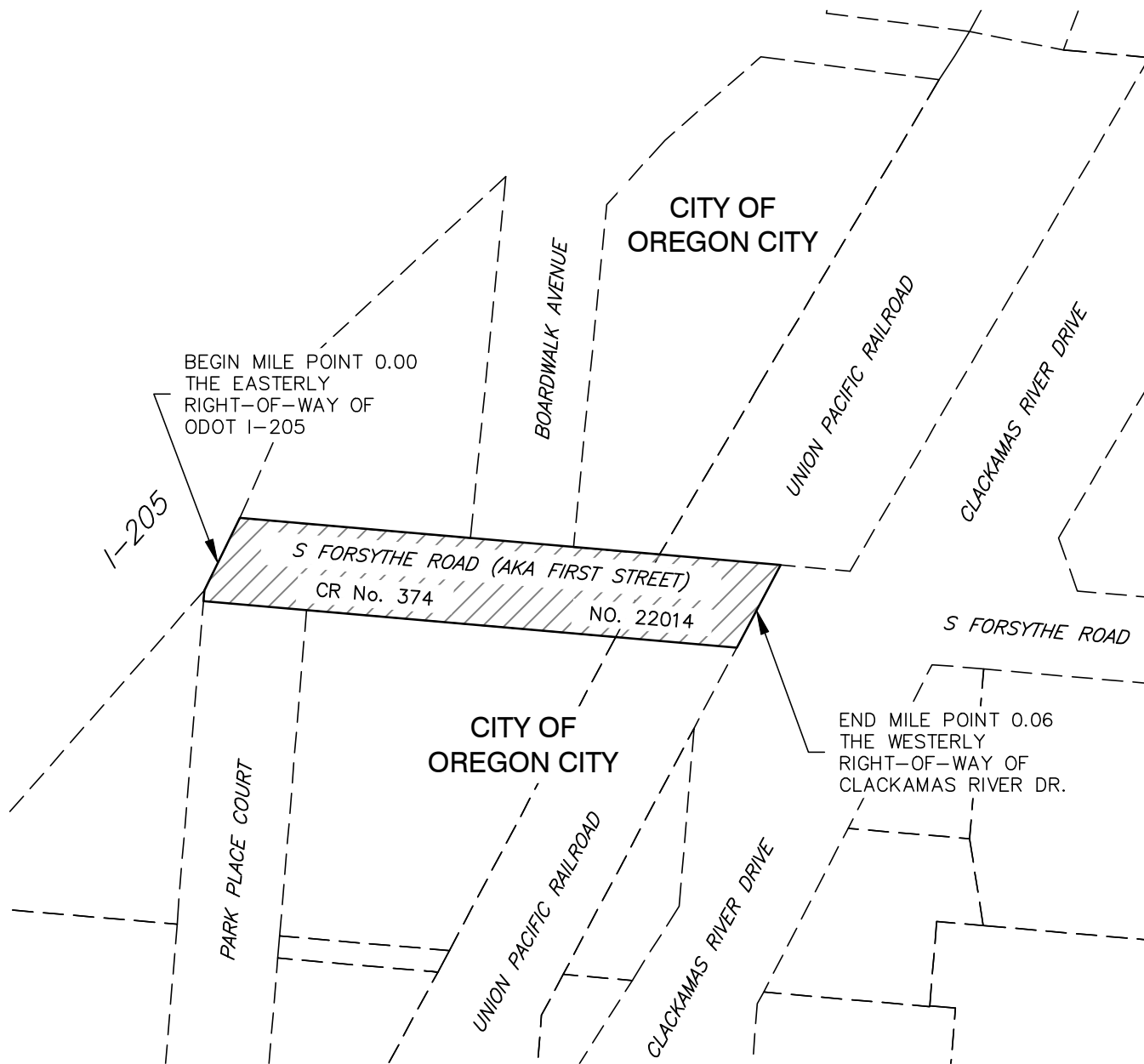
Description

All of that portion of S. Forsythe Road, County Road No. 374, Department of Transportation and Development Maintenance No. 22014; Situated in the southeast 1/4 of Section 20, T. 2 S., R. 2 E., W.M., lying east of and between ODOT I-205 right-of-way, (begin mile point 0.00) and west of the westerly right-of-way of Clackamas River Drive, County Road No. 57, (end mile point 0.06), as shown on Exhibit "B", attached hereto, and by this reference a part hereof. Total length being approximately 317 feet long.

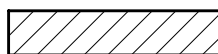
Contains 15,720 square feet, more or less.



# EXHIBIT "B"



## LEGEND



TRANSFERRED AREA  
15,720 Sq. Ft.

LOCATED IN THE SE 1/4 OF SECTION 20,  
T. 2 S., R. 2 E., W.M.  
CLACKAMAS COUNTY, OREGON



NTS

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



BY: R. MAXWELL DATE: 5/29/2024

JURISDICTIONAL TRANSFER  
S FORSYTHE ROAD  
COUNTY ROAD NO. 374

SHEET  
1 OF 1