

ORDINANCE NO. 1553

AN ORDINANCE APPROVING TWO INTERGOVERNMENTAL AGREEMENTS (IGAs) BETWEEN CLACKAMAS COUNTY AND THE CITY OF CANBY PERMITTING AUTHORITY AND MAINTENANCE RESPONSIBILITY FOR PORTIONS OF N. LOCUST STREET, N. MAPLE STREET, N. REDWOOD STREET, AND S. REDWOOD STREET BOTH IN AND OUT OF CITY LIMITS.

WHEREAS, Clackamas County currently has authority and maintenance responsibility for portions of N. Locust St., N. Maple St., N. Redwood St., and S. Redwood St., some within and some technically outside the Canby city limits; and

WHEREAS, the City of Canby desires to accept the authority and maintenance responsibility of the aforementioned roads moving forward; and

WHEREAS, Clackamas County is willing to pay certain amounts to allow the City to repair these roads with an overlay in exchange for the City accepting these into its street system; and

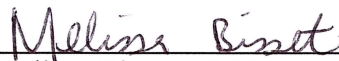
WHEREAS, Clackamas County has offered two IGAs that effectuate this exchange of authority and monetary compensation.

NOW, THEREFORE, THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

Section 1. The City Administrator is hereby authorized on behalf of the City to enter into two Intergovernmental Agreements between Clackamas County and the City of Canby Permitting Authority and Maintenance Responsibility for Portions of N. Locust Street, N. Maple Street, N. Redwood Street, and S. Redwood Street Both In and Out of Canby City Limits. Copies of the IGAs are attached hereto as Exhibits “A and B.”

Section 2. The effective date of this Ordinance shall be June 18, 2021.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, May 5, 2021 ordered posted as required by the Canby City Charter; and scheduled for second reading on Wednesday, May 19, 2021 commencing at the hour of 7:30 PM in the Council Chambers located at 222 NE 2nd Avenue, 1st Floor Canby, Oregon.

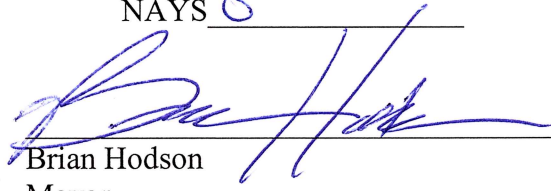


Melissa Bisset, CMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 19th day of May 2021, by the following vote:

YEAS 5

NAYS 0



Brian Hodson
Mayor

ATTEST:



Melissa Bisset, CMC
City Recorder

AFFIDAVIT OF POSTING

STATE OF OREGON)
)
County of Clackamas) ss:
)
CITY OF CANBY)

I, Melissa Bisset, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 5th day of May, 2021 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1553 was read for the first time and passed by the vote of said Council and was then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

Thereafter, on the 10th day of May, 2021, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

- 1. Canby Civic Building – Front Doors
- 2. Canby Post Office
- 3. City of Canby Web Page

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of more than five (5) days and until the very 19th day of May, 2021.

Melissa Bisset

Melissa Bisset, City Recorder

Subscribed and sworn to before me this 12th day of May, 2021.

Erin Elizabeth Burckhard

Notary Public for Oregon
My Commission Expires: June 19, 2023





DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

April 22, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between Clackamas County and the City of Canby to Transfer Permitting Authority and Maintenance Responsibility for of Portions N. Locust Street (County Road #1782, DTD #31077, N. Maple Street (County Road #2579, DTD #31029) and S. Redwood Street (County Road #0277, DTD #41023 to the City

Purpose/Outcomes	Transfers permitting authority and maintenance responsibility for construction on portions of N. Locust Street, N. Maple Street and S. Redwood Street to the City of Canby.
Dollar Amount and Fiscal Impact	Cost savings in the form of staff time and materials related to the permitting, maintenance and oversight of this roadway and a onetime payment of \$348,523, which represents the cost of a 2" asphalt overlay, one area of pre-overlay preparation and ADA improvements along the portions being transferred.
Funding Source	Community Road Fund
Duration	Upon execution; permanent
Previous Board Action	April 13, 2021: Discussion item at issues
Strategic Plan Alignment	1. This transfer will directly align with our departments Business Plan goal of completing jurisdictional transfer of roads to cities. 2. The cost savings realized by this transfer will allow transparency for the budget.
Counsel Review	1. Date of Counsel review: March 04, 2021 2. NB
Procurement Review	Was this item processed through Procurement? No This item is an IGA related to a transfer of Jurisdiction
Contact Person	Michael Bays, Survey Cadd Supervisor; 503-742-46667

Clackamas County currently has jurisdiction, including permitting authority, enforcement of road standards and maintenance responsibility of N. Locust Street, N. Maple Street and S. Redwood Street. This intergovernmental agreement addresses transferring rights and duties as "road authority," including permitting authority, development of road standards, and maintenance responsibility to the City for portions of N. Locust Street, N. Maple Street and S. Redwood Street. This Transfer was vetted though the Clackamas County Coordinating Committee in early 2020 and will be the first transfer under the Community Road Fund's Strategic Investment Fund.

Transferring the rights and duties as road authority for these portions of N. Locust Street, N. Maple Street and S. Redwood Street to the City of Canby will eliminate confusion and improve efficiencies of maintenance and public service. The City will perform all construction and reconstruction; improvement or repair and maintenance; review and issuance of access permits; establishment of roadway standards; acquisition of right of way; storm water and drainage facility repair and maintenance; and review and issuance of street opening permits. The County will retain official jurisdiction of these portions of the roadways until such time as jurisdictional transfer as outlined in this agreement with the County has been completed.

RECOMMENDATION:

Staff respectfully recommends that the Board approve this Intergovernmental Agreement with the City of Canby to transfer rights and duties as road authority for portions of N. Locust Street, N. Maple Street and S. Redwood Street to the City.

Respectfully submitted,

Michael Bays

Michael Bays, Survey Cadd Supervisor
Attachments: IGA, Exhibits

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CANBY AND
CLACKAMAS COUNTY RELATED TO THE TRANSFER OF A PORTION OF N.
LOCUST STREET, N. MAPLE STREET AND S. REDWOOD STREET**

This agreement (the "Agreement") is made on the date all required signatures have been obtained, between the City of Canby ("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 portions of N. Locust Street, N. Maple Street and S. Redwood Street subject to this Agreement are located entirely within the boundaries of the City and are County Roads, as defined in ORS 368.001 ("N. Locust Street, N. Maple Street and S. Redwood Street");

WHEREAS, N. Locust Street, N. Maple Street and S. Redwood Street are depicted in Exhibits "B-1, B-2 and B-3", and more particularly described in Exhibits "A-1, A-2 and A-3", all 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 N. Locust Street, N. Maple Street and S. Redwood Street;

WHEREAS, ORS 373.270 provides a procedure whereby a county may transfer jurisdiction over any county roads within a city to that city, and the Parties desire to pursue a transfer of jurisdiction of N. Locust Street, N. Maple Street and S. Redwood Street pursuant to the terms of this Agreement; and

WHEREAS, the Parties agree that N. Locust Street, N. Maple Street and S. Redwood Street 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 N. Locust Street, N. Maple Street and S. Redwood Street pursuant to ORS 373.270, and the County has paid the amount of money set forth herein.

2. **Transfer of Authority.**

- A. Responsibility for Road Authority activities (as outlined in Section 3) for N. Locust Street, N. Maple Street and S. Redwood Street shall be surrendered to the City pursuant to the terms and conditions of this Agreement. The only portions of N. Locust Street, N. Maple Street and S. Redwood Street subject to this Agreement measures approximately 1,823 feet and 85,569 square feet in area, 1,132 feet and 52,988 square feet in area and 1,354 feet and 87,938 square feet in area, respectively, as more particularly depicted on Exhibit “B-1, B-2 and B-3”, and more specifically described on Exhibit “A-1, A-2 and A-3”.
- B. To facilitate the performance of responsibilities under this Agreement, the City hereby accepts responsibility for Road Authority activities (as outlined in Section 3) for N. Locust Street, N. Maple Street and S. Redwood Street, 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 N. Locust Street, N. Maple Street and S. Redwood Street; and
- F. All other responsibilities the County may have under ORS 368 with regards to N. Locust Street, N. Maple Street and S. Redwood Street which may be assumed by the City under state law.

4. **Maintenance Standard.** Any maintenance on N. Locust Street, N. Maple Street and S. Redwood Street 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. The County 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 County to surrender jurisdiction over N. Locust Street, N. Maple Street and S. Redwood Street

- B. The County shall provide to the City the sum of \$348,523, which is equivalent to the cost of the following improvement: a 2-inch asphalt overlay, one area of pre-overlay preparation and ADA ramp improvements on the portions of N. Locust Street (\$126,482), N. Maple Street (\$95,583) and S. Redwood Street (\$126,458) identified in the exhibits attached to this Agreement. The sum of \$330,523 identified in this paragraph shall be payable to the City within 30 days of the date that full and absolute jurisdiction over N. Locust Street, N. Maple Street and S. Redwood Street is surrendered by the County and accepted by the City as described below.

6. City Responsibilities.

- A. After the County has initiated the process to transfer jurisdiction of N. Locust Street, N. Maple Street and S. Redwood Street, the City shall carry out any additional procedures necessary, as set forth in ORS 373.270, for purposes of finalizing the transfer. The City shall not unreasonably delay or withhold its consent to the transfer of N. Locust Street, N. Maple Street and S. Redwood Street, and shall complete the process to finalize the transfer within 90 days from the date that the County concludes its hearing and decision on the matter. This obligation shall terminate in the event the governing body of the County fails to find that it is necessary, expedient or for the best interests of the County to surrender jurisdiction over N. Locust Street, N. Maple Street and S. Redwood Street
- B. The City agrees to assume full and absolute jurisdiction over the portion of N. Locust Street, N. Maple Street and S. Redwood Street 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 for 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. 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.

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.

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

- 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

4/22/2021

Date



Recording Secretary

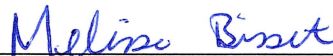
CITY OF CANBY



Mayor City Administrator

6.8.21

Date



Recording Secretary

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.



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

April 22, 2021

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement between Clackamas County and the City of Canby to Transfer Permitting Authority and Maintenance Responsibility for Portions of N. Maple Street (County Road #2579, DTD #31029) and N. Redwood Street (County Road #2163, DTD #31017) to the City

Purpose/Outcomes	Transfers permitting authority and maintenance responsibility for construction on portions of N. Maple Street and N. Redwood Street to the City of Canby.
Dollar Amount and Fiscal Impact	Cost savings in the form of staff time and materials related to the permitting, maintenance and oversight of this roadway and a onetime payment of \$433,342, which represents the cost of a 2" asphalt overlay and ADA improvements along that portions being transferred.
Funding Source	Community Road Fund
Duration	Upon execution; permanent
Previous Board Action	April 13, 2021: Discussion item at issues
Strategic Plan Alignment	1. This transfer will directly align with our departments Business Plan goal of completing jurisdictional transfer of roads to cities. 2. The cost savings realized by this transfer will allow transparency for the budget.
Counsel Review	1. Date of Counsel review: March 4, 2021 2. NB
Procurement Review	Was this item processed through Procurement? No This item is an IGA related to a transfer of Jurisdiction
Contact Person	Michael Bays, Survey Cadd Supervisor; 503-742-4667

Clackamas County currently has jurisdiction, including permitting authority, enforcement of road standards and maintenance responsibility of N. Maple Street and N. Redwood Street. This intergovernmental agreement addresses transferring rights and duties as "road authority," including permitting authority, development of road standards, and maintenance responsibility to the City for portions of N. Maple Street and N. Redwood Street. This Transfer was vetted though

the Clackamas County Coordinating Committee in early 2020 and will be the first transfer under the Community Road Fund's Strategic Investment Fund.

Transferring the rights and duties as road authority for these portions of N. Maple Street and N. Redwood Street to the City of Canby will eliminate confusion and improve efficiencies of maintenance and public service. The City will perform all construction and reconstruction; improvement or repair and maintenance; review and issuance of access permits; establishment of roadway standards; acquisition of right of way; storm water and drainage facility repair and maintenance; and review and issuance of street opening permits. The County will retain official jurisdiction of this portion of the roadway until such time as the roads are annexed into city limits and the County and the City of Canby can complete a transfer of jurisdiction of these portions of roadway as set forth in this Intergovernmental Agreement.

RECOMMENDATION:

Staff respectfully recommends that the Board approve this Intergovernmental Agreement with the City of Canby to transfer rights and duties as road authority for portions of N. Maple Street and N. Redwood Street to the City.

Respectfully submitted,

Michael Bays

Michael Bays, Survey Cadd Supervisor
Attachments: IGA, Exhibits

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF CANBY AND
CLACKAMAS COUNTY RELATED TO ROAD MAINTENANCE AND PERMITTING
AUTHORITY ON A PORTION OF NORTH MAPLE STREET AND NORTH
REDWOOD STREET**

This agreement (the "Agreement") is made on the date all required signatures have been obtained, between the City of Canby ("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 "PARITES" 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 North Maple Street and North Redwood Street are County Roads, as defined in ORS 368.001, lying partially outside, but adjacent to 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 North Maple Street, measuring approximately 2,020 feet and 113,670 square feet in area, and a portion of North Redwood Street, measuring approximately 2,298 feet and 161,147 square feet in area as more particularly depicted on Exhibits "B-1 and B-2" and which are attached hereto and incorporated herein ("North Maple Street and North Redwood Street").

WHEREAS, transfer of responsibility with regards to North Maple Street and North Redwood Street 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 North Maple Street and North Redwood Street, which primarily serves the residents of the City;

WHEREAS, the Parties agree that each will consider the full transfer of jurisdiction of North Maple Street and North Redwood Street to the City once North Maple Street and North Redwood Street are entirely annexed into the City's boundary, and that this Agreement will no longer be necessary if North Maple Street and North Redwood Street are 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 North Maple Street and North Redwood Street as may be allowed under state law in order to grant the City control of North Maple Street and

North Redwood Street prior to the annexation and potential jurisdictional transfer of North Maple Street and North Redwood Street.

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. This Agreement shall expire automatically at the time North Maple Street and North Redwood Street are annexed into the City and the City assumes jurisdiction of North Maple Street and North Redwood Street pursuant to ORS 368 and ORS 373.
2. **Transfer of Authority.**
 - A. Responsibility for Road Authority activities (as outlined in Section 3) for North Maple Street and North Redwood Street shall be surrendered to the City pursuant to the terms and conditions of this Agreement. The only portion of North Maple Street and North Redwood Street subject to this Agreement measures approximately 2,020 feet and 113,670 square feet in area and 2,298 feet and 161,147 square feet in area, respectively, as more particularly depicted on Exhibit “B-1, and B-2”, and more specifically described on Exhibit “A-1 and A-2”.
 - B. To facilitate the performance of responsibilities under this Agreement, the City hereby accepts responsibility for Road Authority activities (as outlined in Section 3) for North Maple Street and North Redwood Street, 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 North Maple Street and North Redwood Street; and

- F. All other responsibilities the County may have under ORS 368 with regards to North Maple Street and North Redwood Street which may be assumed by the City under state law.
4. **Maintenance Standard.** Any maintenance on North Maple Street and North Redwood Street 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 North Maple Street and North Redwood Street have been annexed into the City, the County 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 County to surrender jurisdiction over North Maple Street and North Redwood Street.
- B. The County shall provide to the City the sum of \$433,342, which is equivalent to the cost of the following improvement: a 2-inch asphalt overlay on the portions of North Maple Street (\$124,508) and North Redwood Street (\$303,834) identified in the exhibits attached to this Agreement. The sum of \$433,342 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 the County has initiated the process to transfer jurisdiction of North Maple Street and North Redwood Street, the City shall carry out any additional procedures necessary, as set forth in ORS 373.270, for purposes of finalizing the transfer. The County may initiate separate processes to transfer jurisdiction of North Maple Street and North Redwood Street, or may process the jurisdictional transfer of the roads together. The City shall not unreasonably delay or withhold its consent to the transfer of North Maple Street or North Redwood Street., and shall complete the process to finalize the transfer within 90 days from the date that the County concludes its hearing and decision on the matter. This obligation shall terminate in the event the governing body of the City or County fails to find that it is necessary, expedient or for the best interests of the County to surrender jurisdiction over North Maple Street or North Redwood Street.
- B. The City agrees to assume full and absolute jurisdiction over the portion of North Maple Street and North Redwood Street 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 for 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.

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.

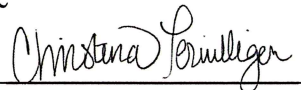
CLACKAMAS COUNTY



Chair

4/22/2021

Date



Recording Secretary

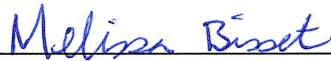
CITY OF CANBY



City Manager

6.8.21

Date



Recording Secretary

Exhibit "A-1"

N. Maple Street Transfer of Jurisdiction (North of NE Territorial Rd.)

Clackamas County to City of Canby

Description

All that portion of N. Maple Street, County Road No. 2579, Department of Transportation and Development maintenance No. 31029; Situated in the NE 1/4 and the SE 1/4 of Section 28, T. 3 S., R 1 E., W.M. as shown in Exhibit "B", attached hereto, lying south of the Northerly boundary line of Tax Lot 31E28A 00402, as described in Document No. 2002-093016, Clackamas County deed records (mile point 0.09) and lying North of the Southerly Lot Line of Lot 50 of "Country Club Estates" subdivision, as recorded in Clackamas County records, also lying north of the northerly Right-of-Way of Territorial Road (mile post 0.48), being approximately 2,020 feet long.

Contain 113,670 square feet, more or less.

Exhibit "A-2"

N. Redwood Street Transfer of Jurisdiction (South of NE Territorial Rd.)

Clackamas County to City of Canby

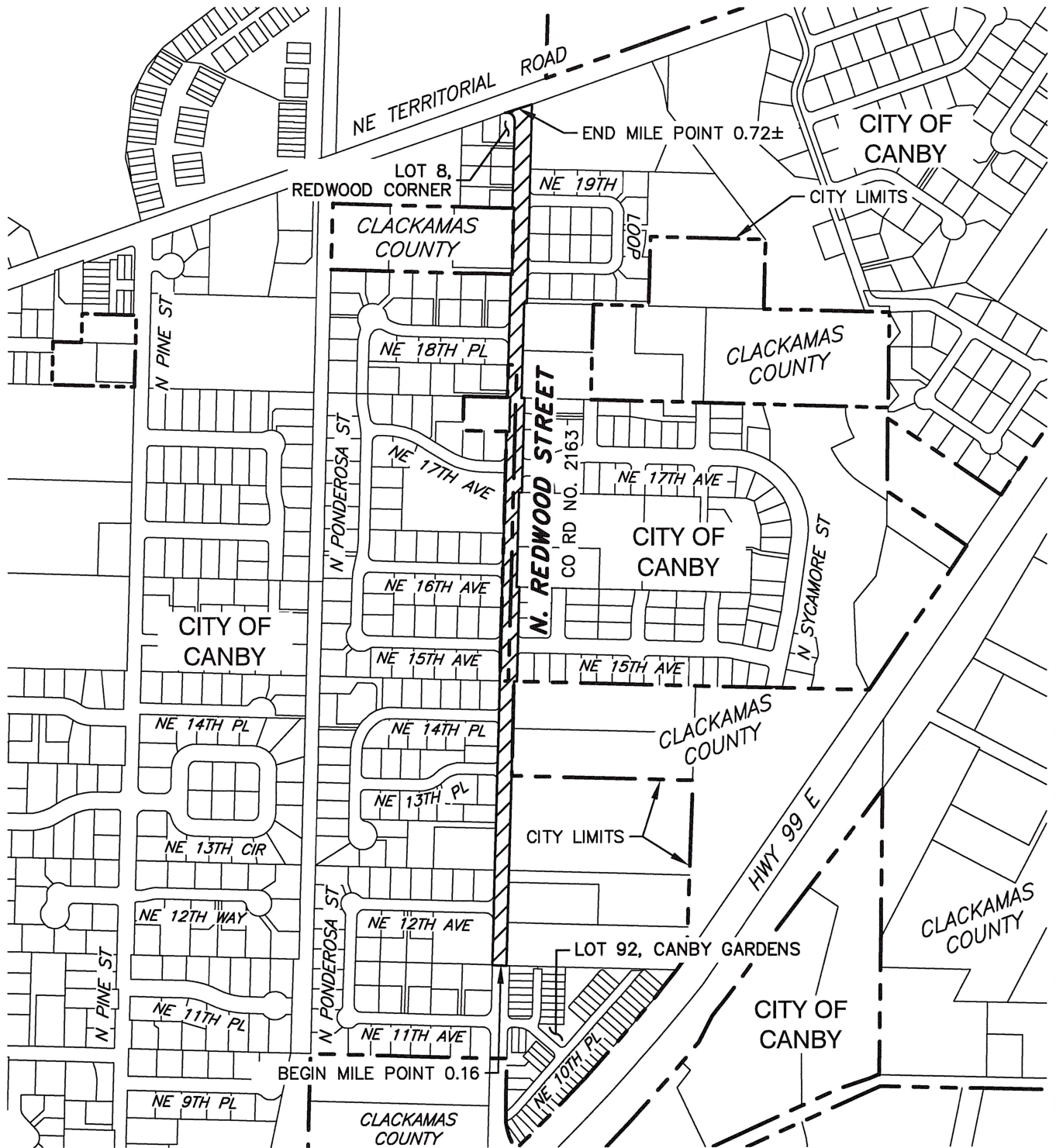
Description

All that portion of N. Redwood Street, County Road No. 2163, Department of Transportation and Development maintenance No. 31017; Situated in the SW 1/4 of Section 27 and the NW 1/4 of Section 34, T. 3 S., R 1 E., W.M. as shown in Exhibit "B", attached hereto, lying south of and between, Mile Point 0.16 being the north Lot Line of Lot 92 of "Canby Gardens" Plat No. 0230 Clackamas County Plat Records and Mile Point 0.72, more or less, being the north Lot Line of Lot 8 of "Redwood Corner" Plat No. 3698 Clackamas County Plat Records, being 2,298 feet long more or less.

Containing 161,147 square feet, more or less.

EXHIBIT "B-2"

1"=500'



LOCATED IN THE SW 1/4 OF SECTION 27,
AND THE NW 1/4 OF SECTION 34,
T. 3 S., R. 1 E., W.M.
CLACKAMAS COUNTY, OREGON



TRANSFERED ROAD

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



02/25/2021

A. REITER

JURISDICTIONAL TRANSFER
S. REDWOOD STREET
COUNTY ROAD NO. 2163

SHEET

1 OF 1