

RESOLUTION NO. 1446

A RESOLUTION AUTHORIZING THE INTERIM CITY ADMINISTRATOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH CLACKAMAS COUNTY RELATING TO THE WALNUT STREET EXTENSION PROJECT.

WHEREAS, Oregon Revised Statutes (“ORS”) 190.010 authorizes local governments to enter into intergovernmental agreements to perform functions and activities otherwise authorized by law;

WHEREAS, the City is planning the Walnut Street Extension Project, which will extend S Walnut Street from SE 1st Avenue north to a new traffic signal on Highway 99E (the “Extension Area”);

WHEREAS, a portion of SE 1st Avenue (designated as County Road No. 687 / DTD No. 31079) lies within the proposed project area and is currently under County jurisdiction (the “Transfer Area”); and

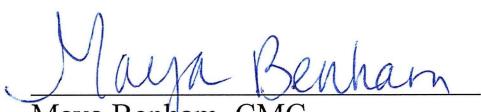
NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Canby that the City Council accepts the terms of the Intergovernmental Agreement with Clackamas County relating to the Walnut Street extension project, which is attached hereto as Walnut Street IGA, Exhibit “A”, Exhibit “B”, and Exhibit “C”, and directs the City Administrator and other City officers to execute Walnut Street IGA, Exhibit “A”, Exhibit “B”, and Exhibit “C”, where appropriate.

ADOPTED this 5 day of November, 2025, by the Canby City Council.



Brian Hodson
Mayor

ATTEST:



Maya Benham
Maya Benham, CMC
City Recorder

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF CANBY AND CLACKAMAS COUNTY RELATING TO
THE WALNUT STREET EXTENSION PROJECT**

This Agreement is made between the City of Canby, a municipal corporation of the State of Oregon (the "City"), and Clackamas County, a political subdivision of the State of Oregon (the "County"), collectively referred to as the "Parties" and each a "Party."

RECITALS

1. ORS 190.010 provides that local governments may enter into intergovernmental agreements for the performance of any or all functions and activities that a local government or its officers or agencies have the authority to perform.
2. The City is currently planning the Walnut Street Extension Project (the "City Project"), which will extend S Walnut Street from SE 1st Avenue north to a new traffic signal on Highway 99E through the area depicted on Exhibit "A," attached hereto and by this reference incorporated herein (the "Extension Area").
3. The portion of SE 1st Avenue depicted on Exhibit "B" and described in Exhibit "C," attached hereto and by this reference incorporated herein, currently labeled as County Road No. 687 and DTD No. 31079 (the "Transfer Area"), is a "county road," as defined in ORS 368.001.
4. The Extension Area and the Transfer Area are within the City's urban growth boundary and are anticipated to eventually be annexed by the City.
5. In light of the City Project, the City is best suited to acquire permitting and maintenance responsibility for the Extension Area and the Transfer Area before they are annexed by the City.
6. The City is best suited to acquire jurisdiction over the Transfer Area after it is annexed by the City.
7. ORS 373.270 provides a mechanism for a county to surrender jurisdiction over a county road within a city to the city, provided the city requests or accepts such jurisdiction.

TERMS

The Parties 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 Extension Area is annexed by the City.

2. City Responsibilities.

A. City Project.

- i. The City shall ensure that the County is granted permanent easements dedicated to the public for road and right of way purposes over the Extension Area.
- ii. Before beginning construction of the City Project, the City shall:
 1. Submit plans and specifications, prepared in accordance with the City's public works design standards, to the County for approval;
 2. Obtain engineering permits from the County for connections to roads under County jurisdiction; and
 3. Obtain all required permits from the Oregon Department of Transportation for connections to roads under State jurisdiction.
- iii. Once the City Project is completed, the City shall inspect all improvements to ensure they comply with the plans and specifications approved by the County.

B. Transfer of Responsibility.

- i. Once the City Project is completed, the City shall assume responsibility for Road Authority activities (described in Section 2.B.iv below) within the Extension Area and the Transfer Area.
- ii. The City shall carry out Road Authority activities within the Extension Area and the Transfer Area in a manner that is similar to other roads with similar features, functions, and characteristics under the City's jurisdiction.
- iii. The City shall be solely responsible for all costs associated with Road Authority activities within the Extension Area and the Transfer Area.
- iv. **Road Authority Activities.** For purposes of this Agreement, "Road Authority activities" include, but are not necessarily limited to, the following:
 1. Construction and reconstruction (including capital improvements);
 2. Improvement, repair, and maintenance;
 3. Repair and maintenance of related facilities within the roadway, including, but not limited to, storm water drainage facilities, traffic control devices, street lights, and roadside barriers;
 4. Timely repair or mitigation of known hazards to road users;

5. Issuance of permits for work;
6. The establishment of roadway standards for the Extension Area and the Transfer Area; and
7. All other responsibilities the County has under ORS chapter 368 with respect to the Extension Area and Transfer Area which may be assumed by the City under state law.

C. Transfer of Jurisdiction.

- i. Once the Transfer Area is annexed by the City, the City shall carry out the procedures set forth in ORS 373.270 to determine whether it is necessary, expedient, or for the best interests of the City to acquire jurisdiction over the Transfer Area and, if so, adopt appropriate municipal legislation requesting such jurisdiction. The City shall complete the process to request jurisdiction within 60 days of the date that the Transfer Area is annexed by the City.
- ii. The City shall accept jurisdiction over the Transfer Area 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 transfer such jurisdiction, and if the County adopts an order surrendering such jurisdiction.

3. County Responsibilities.

A. City Project.

- i. Once the County is granted permanent easements dedicated to the public for road and right of way purposes over the Extension Area, the County shall accept them, making the Extension Area a “local access road,” as defined in ORS 368.001.
- ii. Once the City submits plans and specifications for the City Project to the County, the County shall, within a reasonable time, review and either approve or provide comments on them.

- B. **Transfer of Jurisdiction.** Once the City completes the process to request jurisdiction over the Transfer Area, the County shall give notice and carry out the procedures set forth in ORS 373.270 to determine whether it is necessary, expedient, or for the best interests of the County to surrender such jurisdiction, and, if so, adopt an order surrendering such jurisdiction. The County shall complete the process to surrender jurisdiction within 120 days of the date that the City requests such jurisdiction. 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 acquire such jurisdiction.

4. Termination.

- A. The Parties, by mutual written agreement, may terminate this Agreement at any time.
- B. Either Party may terminate this Agreement in the event of a breach by the other Party. 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 completely cured the breach within thirty (30) days of deemed or actual receipt of the notice, then the Party giving notice may terminate this Agreement any time thereafter by giving written notice of termination stating the effective date of the termination. If the breach is of such a nature that it cannot be completely cured within such thirty (30) day period, then the Party giving notice may not terminate this Agreement due to the breach if the breaching Party begins curing the breach within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to completely cure the breach as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar breach in any twelve (12) month period.
- C. Any rights or obligations accrued to the Parties prior to termination shall survive such termination.

5. **Indemnification.** Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the each Party agrees to indemnify, save harmless, and defend the other Party and 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 indemnifying Party or its officers, elected officials, owners, employees, agents, or subcontractors, or anyone whom the indemnifying Party has a right to control, including negligent or willful acts performed in connection with this Agreement, including but not limited to the City's Road Authority activities in the Extension Area and the Transfer Area.

6. Party Contacts.

- A. Randy Ealy or his designee shall act as liaison for the City for this Agreement.

Contact Information:

Randy Ealy
City of Canby
222 NE 2nd Avenue
Canby, OR 97013
503-266-4021
ealryr@canbyoregon.gov

B. Mike Bezner or his designee shall act as liaison for the County for this Agreement.

Contact Information:

Mike Bezner

Clackamas County Department of Transportation and Development
150 Beavercreek Road
Oregon City, OR 97045
503-742-4651
mikebez@clackamas.us

7. 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 shall 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 a different time, of any other remedies for the same breach, or for any other breach, by the other Party.
- D. **Retention of Records.** All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents should be retained for a period of three (3) years after expiration or termination of this Agreement; provided that any records or documents that are the subject of audit findings shall be retained until such audit findings are resolved.
- E. **Access to Records.** Each Party 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 (3) years after expiration or termination of this Agreement. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
- F. **Debt Limitation.** This Agreement is subject to the county debt limitation set forth in Article XI, section 10, of the Oregon Constitution, and is contingent upon funds being appropriated to carry out its provisions.

G. 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, to the intentions of the Parties.

H. Integration, Amendment, and Waiver. Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the City Project, the transfer of responsibility for the Extension Area and the Transfer Area, and the transfer of jurisdiction over the Transfer Area. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification, or change to the terms of this Agreement shall bind either Party unless it is in writing and signed by both Parties, and unless 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. A waiver as to one breach shall not be deemed a waiver as to any other breach not expressly identified, even though the other breach is of the same nature as the one waived.

I. 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.

J. No Partnership. 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 specifically disclaims any such relationship.

K. 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 Parties.

L. No Assignment. Neither 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 to the Parties.

M. Nonwaiver of Government Rights. By making this Agreement, neither the City nor the County is specifically obligating itself or any other governmental entity with respect to any discretionary governmental action relating to the City Project or the development, operation, or use of the improvements to be constructed in connection therewith, including, but not limited to, condemnation, comprehensive planning, rezoning,

variances, environmental clearances, or any other governmental approvals that are or may be required, including but not limited to a determination regarding whether it is necessary, expedient, or for the best interests of either Party to transfer jurisdiction of the Transfer Area from the County to the City.

- N. **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 both Parties, notwithstanding that both Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original. Electronic signatures and copies of manual signatures delivered by Acrobat PDF, facsimile, or electronic signature service shall be deemed to be original signatures and shall be binding upon the Parties.
- O. **Authority.** Each Party represents that it has the authority to enter into this Agreement, and each individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.
- P. **Necessary Acts.** Each Party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

CLACKAMAS COUNTY

Craig Roberts, Chair

Date

Recording Secretary

CITY OF CANBY

Randy Ealy, City Administrator

Date

Recording Secretary