

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF FOREST GROVE FOR TRAIL DEVELOPMENT	)	RESOLUTION NO. 08-3935
	)	
	)	Introduced by Chief Operating Officer
	)	Michael J. Jordan, with the concurrence of
	)	Council President David Bragdon

WHEREAS, Metro owns certain real property partly within and partly adjacent to the City of Forest Grove, Oregon, which property is commonly known as Tax Lot 2700 in Township 1 South, Range 3 West, Section 6C (the "Metro Property"); and

WHEREAS, the City of Forest Grove (the "City") owns certain property adjacent to the Metro Property commonly known as Tax Lot 2100 in Township 1 South, Range 3 West Section 6C, which property is a former railroad right-of-way (the "City Property"); and

WHEREAS, Metro and the City wish to enter into an Intergovernmental Agreement ("IGA") to allow the City to construct a pedestrian and bicycle trail across the Metro Property and along the City Property (the "Trail"), and, upon completion of Trail construction, for Metro to grant to the City a permanent, recordable pedestrian and bicycle trail easement across the Metro Property providing for the ongoing use, maintenance, repair, and reconstruction of the Trail; and

WHEREAS, the City has adopted a Community Trail Master Plan that identifies the Trail as an important connection for both recreation and transportation purposes and the City has received a grant from the State of Oregon Parks and Recreation Department for Trail construction; and

WHEREAS, the City adopted Resolution No. 2008-16, "Authorizing City Manager to endorse intergovernmental agreement between the city of Forest Grove and Metro for trail development" on February 11, 2008, approving this IGA; and

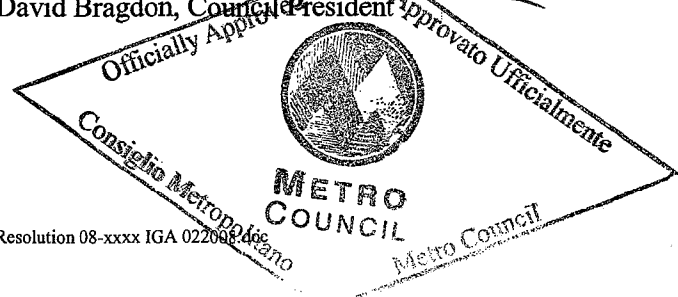
WHEREAS, the Metro Council concludes that such a trail use on the Metro Property is a park use and is consistent with Metro's Metropolitan Greenspace Master Plan and, more specifically, with Metro's easement policy as described in Metro Resolution No. 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed By the Regional Parks and Greenspaces Department" approved on November 6, 1997; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to execute an Intergovernmental Agreement with the City of Forest Grove in substantially the form attached as Exhibit A to this resolution, to provide the City with temporary authority to enter certain portions of the Metro Property to construct the Trail and to grant a trail easement to the City as provided in such IGA.

ADOPTED by the Metro Council this 15<sup>th</sup> day of May, 2008.

*[Signature]*  
David Bragdon, Council President

Approved as to Form:  
*[Signature]*  
Daniel B. Cooper, Metro Attorney



**INTERGOVERNMENTAL AGREEMENT**

This Intergovernmental Agreement (“Agreement”) is by and between Metro, an Oregon municipal government, located at 600 Northeast Grand Avenue, Portland, Oregon, 97232-2736 (“Metro”), and the City of Forest Grove, an Oregon municipal corporation, located at 1924 Council Street, Forest Grove, Oregon 97116-0326 (“the City”). This Agreement shall be effective on the last date of signature of a party, below (the “Effective Date”).

**RECITALS:**

WHEREAS, the City owns certain property commonly known as Tax Lot 2100 in Township 1 South, Range 3 West, Section 6C, which property is a former railroad right-of-way (“City Right of Way Parcel”);

WHEREAS, Metro owns certain property adjacent to the City Right of Way Parcel commonly known as Tax Lot 2700 in Township 1 South, Range 3 West, Section 6C (“Metro Property”);

WHEREAS, the City has received a grant from the Oregon Parks and Recreation Department to construct a bicycle and pedestrian trail along a route that includes the City Right of Way Parcel and the Metro Property;

WHEREAS, the Metro Council concludes that such a trail use on the Metro Property is a park use and is consistent with Metro’s Metropolitan Greenspaces Master Plan;

WHEREAS, Metro and the City wish to enter into this Agreement to provide the City with temporary authority to enter certain portions of the Metro Property to construct a pedestrian and bicycle trail, subject to the conditions herein; and

WHEREAS, upon the conclusion of the satisfactory construction of the trail described herein on Metro Property, Metro agrees, subject to the provisions herein, to provide the City with a recordable easement for the ongoing use, maintenance, repair, and reconstruction of such trail;

Now, therefore, the parties agree as follows:

- 1. City’s Access and Use of the Metro Property.** The City and the City’s officers, employees, agents, invitees, contractors, and subcontractors are hereby authorized to temporarily access and use a portion of the Metro Property identified as the “Trail Construction Area,” as more specifically depicted in Exhibit A attached hereto and incorporated herein, between the Effective Date of this Agreement and September 30, 2009, for the purpose of constructing an all-weather paved bicycle and pedestrian trail pathway, including related surface and subsurface utilities and related safety improvement and landscape amenities (the “Trail”), within the portion of the Metro Property identified as the “Trail Corridor,” as more specifically depicted in Exhibit A. Such access may include use of the Trail Construction Area for staging trail construction equipment and supplies. All areas of the Metro Property that are accessed or disturbed by the City in any way pursuant to this paragraph shall be restored to their pre-work

condition as provided in Section 4 of this Agreement. The City shall coordinate its use of the Trail Construction Area with Metro to ensure that the City's activities do not have any detrimental impact on agricultural activities on the Metro Property.

- 2. Trail Specifications; Metro Approval of Deviations.** The trail constructed by the City shall be not more than twelve (12) feet wide and 375 feet long, and shall be constructed of permeable asphalt or concrete over approximately six (6) inches of crushed rock laid at existing grade. Prior to the City's commencement of construction, if the final trail design deviates from such specifications in any respect, then the City shall provide such design deviations to Metro for Metro's review and approval at least one (1) month prior to the start of construction. Metro shall have two (2) weeks to review and approve any such deviation, provided that Metro's approval shall not be unreasonably withheld.
- 3. Limitations; Hazardous Substances Prohibited.** Except as specifically authorized by this Agreement, no other use may be made of the Trail Construction Area without the prior written approval of Metro. Except for fuel and lubricants stored within equipment necessary and incidental to the authorized use of the Trail Construction Area pursuant to this Agreement, no Hazardous Substances (as defined below) may be used, handled, stored, or transported on, to, or from the Trail Construction Area. Under no circumstances shall any use be made of, or conduct occur on, the Trail Construction Area which would cause such areas, or any part thereof, to be deemed a hazardous waste treatment, storage, or disposal facility requiring a permit, interim status, or any other special authorization under any applicable law, rule, or regulation.
- 4. Repair of Surface Damages; Compensation If Not Repaired.** The City shall repair to their pre-work condition all areas of the Metro Property, including personal property, improvements, and agricultural crops, that are impacted or damaged by the City or the City's officers, employees, agents, invitees, contractors, or subcontractors. In the event that such impacts or damages relate to removal of native vegetation, landscaping, or landscaping material, the City shall restore the vegetation and landscaping as provided below. If the City fails to repair such impacts and damages, then the City shall compensate Metro for its costs to repair such impacts and damages. If such impacts and damages result in the loss of any agricultural crops then the City shall compensate Metro's lessee farmer for the value of such lost crops. In making any installation in the Trail Construction Area, the City shall restore any landscaping to its condition and size prior to such installation, as well as replace, as applicable, any sidewalks, pavement, curbs, driveways, signs, irrigation systems, or other improvements affected by the installation. The City shall perform all work in the Trail Construction Area in a prompt and workmanlike manner.
- 5. Metro to Provide Easement Upon Receipt of Survey and Legal Description of Easement Area.** Upon the City's completion of construction of the trail, the City shall provide to Metro a survey and legal description of the specific area on the Metro Property where the Trail is located and, subject to Metro's approval of such survey and description, at Metro's sole reasonable discretion, Metro shall grant the City a bicycle and pedestrian trail easement substantially in the form attached hereto as Exhibit B.

- 6. Indemnity.** To the maximum extent permitted by law and subject to the Oregon Constitution and the Oregon Tort Claims Act, ORS Chapter 30, the City shall fully defend, indemnify, and save harmless Metro and Metro’s officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys’, paralegals’, and experts’ fees and expenses at trial and on appeal, relating to or arising out of: (a) an intentional or negligent act or omission of the City or the City’s officers, employees, agents, invitees, contractors, or subcontractors acting within the scope of their employment or duties occurring within the Trail Construction Area; (b) the installation, construction, maintenance, or operation of any improvements, utilities, or other systems installed in the Trail Construction Area, including the installation, construction, maintenance, or operation of the Trail; and (c) any breach, violation, or failure to perform any of the City’s obligations under this Agreement.
- 7. Environmental Indemnity.** To the maximum extent permitted by law and subject to the Oregon Constitution and the Oregon Tort Claims Act, the City shall fully defend, indemnify, and save harmless Metro and Metro’s officers and employees from and against the costs of any necessary or required sampling, testing, study, remediation, cleanup, or monitoring, and against all actual or alleged claims, actions, demands, judgments, and damages, and all costs, expenses, and fees incidental to the investigation and defense thereof, including, but not limited to attorney, accountant, paralegal and expert fees through all appeals, arising out of or related to the City’s activities on the Metro Property authorized herein and based upon or arising out of the release, disposal, generation, or transport within the Trail Construction Area of Hazardous or Toxic Materials or Substances, as those terms are defined in ORS chapters 465 and 466, as amended, or the federal Resource Conservation and Recovery Act (“RCRA”), Toxic Substances Control Act (“TSCA”), Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), as amended 42 USC § 960 et seq., or any other federal, state, or local law, ordinance, rule, or regulation pertaining to the protection of the environment; provided, however, that by entering this Agreement, the City is not accepting liability for any preexisting release of hazardous substances onto or from the Trail Construction Area, and Metro is not attempting to convey any such liability.
- 8. Insurance.** The City shall require all contractors and subcontractors working on the Metro Property to maintain the following types of insurance, covering the Contractor and the Contractor’s employees and agents, and naming the City and Metro, and their elected officials, departments, employees, and agents as ADDITIONAL INSURED, and requiring that notice of any material change or policy cancellation shall be provided to the City and Metro not less than thirty (30) days prior to such change or cancellation:

  - (a) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability, shall be a minimum of \$1,000,000 per occurrence. The policy must be endorsed with contractual liability coverage; and
  - (b) Automobile bodily injury and property damage liability insurance coverage shall be a minimum of \$1,000,000 per occurrence.

- 9. Signage.** The City may provide on-site signage informing the public that the City is constructing a trail on the site. The City shall install additional on-site signage, provided by Metro, stating that funding for the acquisition of some of the land on which the Trail is located came from proceeds of the 1995 Metro Open Spaces Bond Measure. The City also shall document in any publication, media presentation, or other presentations that acquisition of some of the land on which the Trail is located was paid for with proceeds from the 1995 Metro Open Spaces Bond Measure. All signage shall be consistent with Metro guidelines for Open Spaces/Natural Areas Projects.
- 10. Term.** This Agreement shall be in effect from the Effective Date until December 31, 2009, provided, however, that the requirements of Sections 4, 6, 7, and 9 shall survive the expiration of this Agreement.
- 11. Joint Termination for Convenience.** Metro and the City may, by written agreement signed by both parties, jointly terminate all or part of this Agreement based upon a determination that such action is in the public interest. Termination under this provision shall be effective as provided in such termination agreement.
- 12. Termination for Cause.** Either party may terminate this Agreement in full, or in part, at any time if that party (the “terminating party”) has determined, in its sole discretion, that the other party has failed to comply with the conditions of this Agreement and is therefore in default (the “defaulting party”). The terminating party shall promptly notify the defaulting party in writing of that determination and document such default as outlined herein. The defaulting party shall have thirty (30) days to cure the default described by the terminating party. If the defaulting party fails to cure the default within such thirty (30) day period, then this Agreement shall terminate ten (10) days following the expiration of such thirty (30) day period.
- 13. Laws of Oregon; Public Contracts.** The laws of the State of Oregon shall govern this Agreement, and the parties agree to submit to the jurisdiction of the courts of the State of Oregon. All applicable provisions of ORS chapters 279A, 279B, and 279C, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated by this reference as if such provisions were a part of this Agreement. Specifically, the City’s construction activities shall fully comply with all applicable zoning, development, land use, public contracting, prevailing wage, and workers’ compensation laws, rules, and regulations.
- 14. Assignment.** Neither party may assign any of its rights or responsibilities under this Agreement without prior written consent from the other party, except that a party may delegate or subcontract for performance of any of its responsibilities under this Agreement.
- 15. Notices.** All notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by both (1) electronic mail or fax, and (2) regular mail. Notices shall be deemed delivered on the date personally delivered or the date of such electronic or fax correspondence, unless such delivery is on a weekend day, on a holiday, or after 5:00

p.m., in which case such notice shall be deemed delivered on the next following weekday that is not a holiday.

To Metro: Director, Metro Regional Parks and Greenspaces  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

To City: [Authorized Representative's name] \_\_\_\_\_  
City of \_\_\_\_\_  
[Parks Dept. Name] \_\_\_\_\_  
[Address] \_\_\_\_\_  
[City, OR Zip] \_\_\_\_\_

**16. Severability.** If any covenant or provision of this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

**17. Entire Agreement; Modifications.** This Agreement constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or representations relating to the Properties. No waiver, consent, modification, amendment, or other change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth below.

CITY OF FOREST GROVE

METRO

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

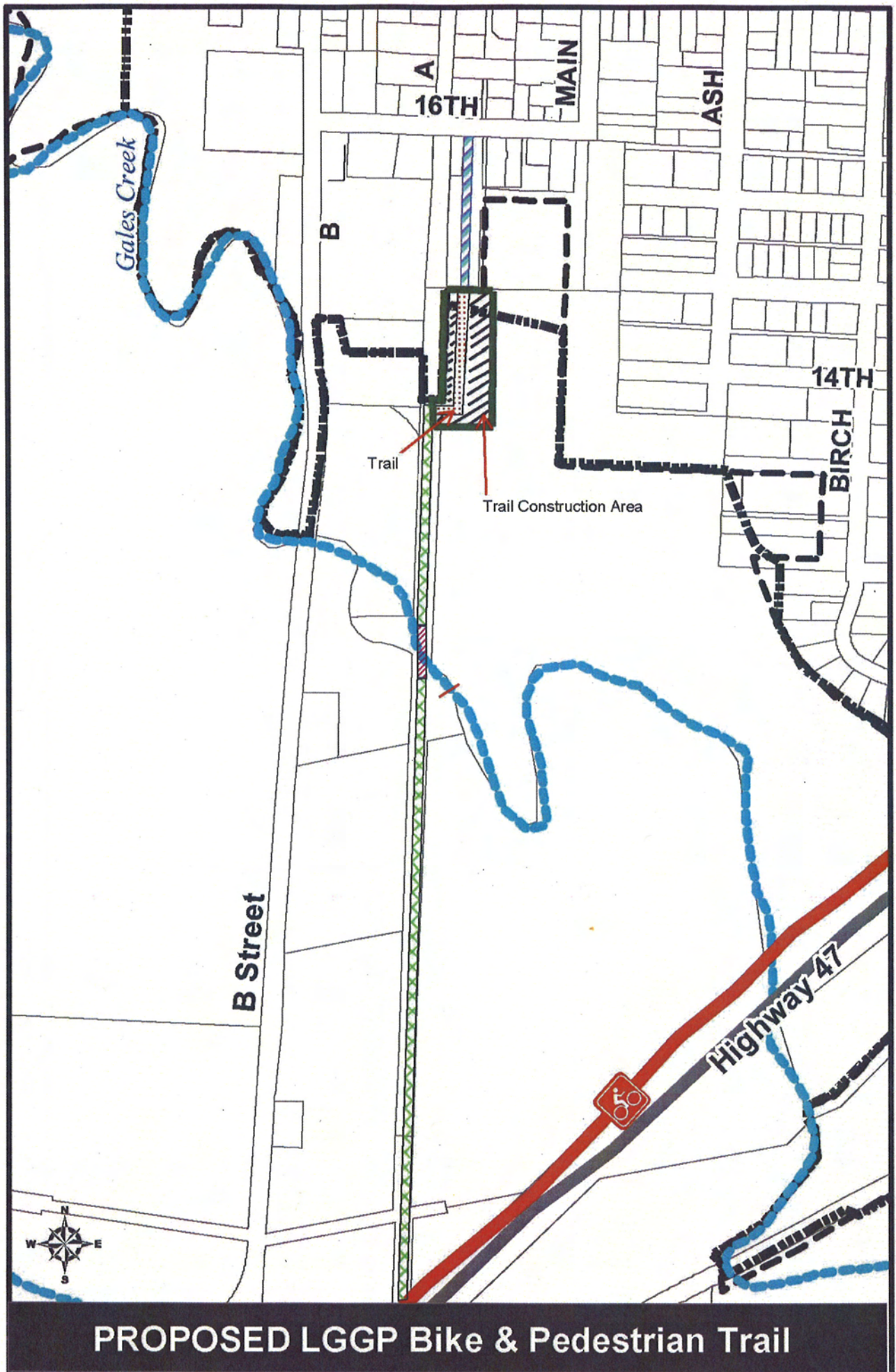
\_\_\_\_\_  
Michael Jordan, Chief Operating Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibits:**

- Exhibit A – List of Properties Subject to Existing Management IGAs
- Exhibit B – Form of Bicycle and Pedestrian Easement



# PROPOSED LGGP Bike & Pedestrian Trail

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**GRANTOR: METRO**  
600 NE Grand Avenue  
Portland, OR 97232-2736

**GRANTEE: THE CITY OF FOREST GROVE, OREGON**  
[Address]  
Forest Grove, Oregon 97xxx

Until a change is requested, all tax statements should be sent to:  
METRO  
600 NE Grand Avenue  
Portland, OR 97232-2736

After Recording Return to:  
The City of Forest Grove, Oregon  
[Address]  
Forest Grove, Oregon 97xxx

## GRANT OF BICYCLE AND PEDESTRIAN TRAIL EASEMENT

METRO, an Oregon municipal corporation ("Grantor"), for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, subject to the terms hereof, to THE CITY OF FOREST GROVE, OREGON, an Oregon municipal corporation ("Grantee" or "City"), an exclusive, perpetual, public bicycle and pedestrian trail easement and right-of-way over and through that certain real property commonly known as Tax Lot 2700 in Township 1 South, Range 3 West, Section 6C, as more fully described in the legal description attached hereto as Exhibit 1 (the "Metro Property"), for the purposes outlined herein and within an area not more than 400 feet long and 15 feet wide, as more fully described and depicted in Exhibit 2, attached hereto and incorporated herein (the "Easement Area").

The cash consideration paid for this grant is \$0; however, the true and actual consideration includes other value given or promised which is the whole of the consideration.

1. **PURPOSE.** The purpose of this Easement is for Metro to grant the City with the right to use, maintain, repair, and reconstruct the Easement Area as an all-weather, paved bicycle and pedestrian trail.
2. **RIGHTS GRANTED.** This Easement hereby grants to Grantee and the public the perpetual, exclusive right of ingress and egress to and from, over and across the Easement Area along the Trail for all-hours public bicycle and pedestrian access. Forest Grove shall have the right to access the Easement Area to use, maintain, repair, and reconstruct the Trail.
3. **LIMITATIONS.** Except as specifically authorized by this Easement, no other use may



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be made of the Easement Area without the prior written approval of Grantor. Except for fuel and lubricants stored within equipment necessary and incidental to the authorized use of the Easement Area pursuant to this Easement, no Hazardous Substances may be used, handled, stored, or transported on, to, or from the Easement Area. Under no circumstances shall any use be made of, or conduct occur on, the Easement Area which would cause such areas, or any part thereof, to be deemed a hazardous waste treatment, storage, or disposal facility requiring a permit, interim status, or any other special authorization under any applicable law, rule, or regulation.

4. SURFACE DAMAGES. Grantee shall compensate Grantor for all damages to Grantor's real and/or personal property improvements, including all damages and impacts to the Metro Property and to any agricultural activities occurring on the Metro Property, caused by the construction, maintenance, repair, replacement, or removal of the Trail in the Easement Area or, in the event that the damages relate to removal of native vegetation, landscaping, or landscaping material, Grantee shall restore the vegetation and landscaping as provided below. In making any installation in the Easement Area, the Grantee shall restore any landscaping to its condition and size prior to such installation, as well as replace, as applicable, any sidewalks, pavement, curbs, driveways, signs, irrigation systems, or other improvements affected by the installation. Grantee shall perform any work in the Easement Area in a prompt and workmanlike manner.
5. RELEASE OF LIABILITY. By granting this Easement, the Grantor shall have no liability or responsibility for the costs of any installation made by Grantee in the Easement Area, including the cost of constructing, maintaining, repairing, replacing, reconstructing, or removing the Trail. Grantor is hereby released from all liability for damages to any improvements, utilities, or systems installed in the Easement Area caused by members of the public entering on the Easement Area, except to the extent such damages arise from or are caused by Grantor's negligence.
6. INDEMNITY. To the maximum extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, Grantee shall fully indemnify, hold harmless, and defend the Grantor and Grantor's officers, employees, and agents from and against all actual or alleged claims, actions, demands, judgments, and damages, and all costs, expenses, and fees incidental to the investigation and defense thereof, including, but not limited to, attorney, accountant, paralegal, and expert fees through all appeals, based upon or arising out of: (a) an intentional or negligent act or omission of Grantee or Grantee's officers, employees, agents, invitees, contractors, or subcontractors acting within the scope of their employment or duties occurring on the Easement Area; (2) the installation, construction, maintenance, or operation of any improvements, utilities, or other systems installed in the Easement Area, including the installation, construction, maintenance, or operation of the Trail; and (3) any breach, violation, or failure to perform any of Grantee's obligations under this Easement.
7. ENVIRONMENTAL INDEMNITY. To the maximum extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, Grantee shall fully indemnify, hold harmless, and defend the Grantor, its officers, and employees from and against the costs

## DRAFT

of any necessary or required sampling, testing, study, remediation, cleanup, or monitoring, and against all actual or alleged claims, actions, demands, judgments, and damages, and all costs, expenses, and fees incidental to the investigation and defense thereof, including, but not limited to attorney, accountant, paralegal and expert fees through all appeals, arising out of or related to Grantee's activities on the Metro Property authorized herein and based upon or arising out of the release, disposal, generation, or transport within the Easement Area of Hazardous or Toxic Materials or Substances, as those terms are defined in ORS chapters 465 and 466, as amended, or the federal Resource Conservation and Recovery Act ("RCRA"), Toxic Substances Control Act ("TSCA"), Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended 42 USC § 960 et seq., or any other federal, state, or local law, ordinance, rule, or regulation pertaining to the protection of the environment; provided, however, that by accepting this Easement, Grantee is not accepting liability for any preexisting release of hazardous substances onto or from the Easement Area, and Grantor is not attempting to convey any such liability.

8. RIGHT OF RE-ENTRY; TERMINATION. This Easement is granted on the express condition that the Grantee use the Easement solely for the purposes stated in Sections 1 and 2, above. In the event the Grantee uses the Easement for another purpose or fails to use the Easement Area for a continuous period of one (1) year at any time after the initial Trail construction authorized by this Easement, or, in the event the parties mutually agree to terminate this Easement, then Grantor may re-enter and terminate this Easement. Within ninety (90) days from the date of written notice from Grantor upon non-continuous use for the one (1) year period or mutual termination of this Easement, the Grantee shall remove any installation from the Easement Area, including the Trail, shall restore the land to a grade consistent with the surrounding area, said restoration to be at Grantee's sole cost as directed by and to the satisfaction of the Grantor, and shall deliver to the Grantor a recordable document or documents sufficient to remove this Easement as an encumbrance on the Easement Area.
9. RESERVATIONS. Grantor reserves the right to use and enjoy the Easement Area provided that such use shall not hinder, conflict with, or interfere with Grantee's rights hereunder or disturb its installations within the Easement Area, and Grantor shall neither authorize nor construct, create, or maintain any road, reservoir, excavation, change in surface grade, obstruction, or structure on, over, along, or within the Easement Area without Grantee's prior written consent.
10. COVENANTS. The rights granted herein shall be covenants running with the land and be binding upon Grantor, its successors and assigns in perpetuity, except as otherwise set forth herein. Grantee covenants and agrees to maintain and repair all improvements, utilities, and systems installed within the Easement Area by Grantee, including the Trail. Grantee covenants and agrees that, in the conduct of any and all of its activities and operations hereunder, it will comply strictly with all present and future rules and regulations of all federal, state, and local government bodies having jurisdiction over the construction activities occurring within the Easement Area and, if applicable, on adjacent real property owned by Grantor.

**DRAFT**

11. GRANTOR'S RIGHT TO GRANT EASEMENT. Grantor represents and warrants that it is the owner of the Easement Area having the full right and power to grant the rights provided in this Easement, subject to liens and encumbrances of record as of the date of execution set forth below.

THIS EASEMENT is executed this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

METRO, GRANTOR

By: \_\_\_\_\_  
Name: Michael J. Jordan  
Title: Chief Operating Officer

State of Oregon )  
 ) ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ 2007, before me \_\_\_\_\_, the undersigned Notary Public, personally appeared \_\_\_\_\_, as Chief Operating Officer of Metro, a municipal corporation, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

\_\_\_\_\_  
My commission expires: \_\_\_\_\_

ACCEPTANCE

THIS EASEMENT is hereby accepted this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

CITY OF FOREST GROVE, GRANTEE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OREGON )  
 ) ss.  
County of Multnomah )

**DRAFT**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_  
2007 by \_\_\_\_\_, the \_\_\_\_\_ of the City  
of Forest Grove, Oregon.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

# **DRAFT**

**Exhibit 1**  
**Metro Property Legal Description**  
[to be included with final easement]

# **DRAFT**

**Exhibit 2**  
**Easement Area Legal Description**  
[to be appended upon completion of survey]

## **STAFF REPORT**

### **IN CONSIDERATION OF RESOLUTION NO. 08-3935 AUTHORIZING THE CHIEF OPERATING OFFICER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF FOREST GROVE FOR TRAIL DEVELOPMENT**

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Date: May 15, 2008

Prepared by: Jim Morgan

## **BACKGROUND**

City of Forest Grove (“the City”) is seeking an easement through an intergovernmental agreement from Metro for the construction and use of a public pedestrian and bike trail section on Metro property. The proposed trail section is within a 43-acre parcel acquired in 1996 with funds from the 1995 Open Space, Parks, and Streams bond measure. The trail section on Metro property, measuring approximately 12 feet by 375 feet, will provide continuity for the City’s proposed LGGP Bike and Pedestrian Trail. The trail is identified as an important connection for recreation and transportation purposes in the City’s Community Trail Master Plan.

With the support of Metro, the City obtained significant funding for trail construction from an Oregon State Parks and Recreation grant program. In compliance with grant requirements, the City is requesting from Metro an intergovernmental agreement to allow construction of the trail and to grant a perpetual easement to the City for intended trail uses upon completion of the trail. The proposed trail is for park use and is consistent with Metro’s easement policy. The intended trail use on the Metro natural area is consistent with Metro’s Metropolitan Greenspaces Master Plan.

The City’s request and support for this trail easement is conveyed through the resolution passed by Forest Grove City Council (Attachment 1) authorizing the City Manager to execute an intergovernmental agreement with Metro that provides the trail easement.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

None identified.

### **2. Legal Antecedents**

On November 6, 1997, Metro Council approved Resolution 97-2539B For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department.

The City adopted Resolution No. 2008-16 “Authorizing an Intergovernmental Agreement between the City of Forest Grove and Metro for Trail Development” on February 11, 2008 authorizing an intergovernmental agreement between the City of Forest Grove and Metro for trail development.

### **3. Anticipated Effects**

Upon adoption of this resolution, the Chief Operating Officer is authorized to enter into an intergovernmental agreement with the City in substantially the form attached as Exhibit A to the resolution. This agreement will commit Metro to granting the City temporary authority to access and construct a section of trail and granting a perpetual easement over approximately 15 feet in width and 400 feet in length on Metro property. This will allow completion of an important trail connection as outlined in the City's Community Trail Master Plan.

### **4. Budget Impacts**

The City will bear all expenses for trail permitting, construction, ongoing trail use, maintenance, and repair. The City will submit the legal description documenting the perpetual easement location after the trail is constructed.

### **RECOMMENDED ACTION**

It is recommended that Council adopt Resolution No. 08-3935 authorizing the Chief Operating Officer to execute an intergovernmental agreement with the City of Forest Grove for trail development.



**RESOLUTION NO. 2008-16**

**RESOLUTION OF THE CITY OF FOREST GROVE  
AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF FOREST GROVE AND METRO  
FOR TRAIL DEVELOPMENT**

**WHEREAS**, the partners, including the City of Forest Grove and Metro, wish to enter into an Intergovernmental Agreement (IGA) for trail development; and

**WHEREAS**, the City of Forest Grove owns certain property commonly known as Tax Lot 2100 in Township 1 South, Range 3 West Section 6C, which property is a former railroad right-of-way; and

**WHEREAS**, Metro owns certain property adjacent to the City Right-of-Way Parcel commonly known as Tax Lot 2700 in Township 1 South, Range 3 West, Section 6C; and

**WHEREAS**, the City has received a grant from the State of Oregon Parks and Recreation Department to construct a bicycle and pedestrian trail along a route that includes the City Right-of-Way and the Metro Property; and

**WHEREAS**, the Metro Council concludes that such a trail use on the Metro Property is a park use and is consistent with Metro's Metropolitan Greenspace Master Plan; and

**WHEREAS**, the City of Forest Grove has adopted a Community Trail Master Plan that identifies this section of trail as an important connection for both recreation and transportation purposes; and

**WHEREAS**, upon the conclusion of the satisfactory construction of the trail described herein on the Metro Property, Metro agrees, subject to the provisions of the IGA, to provide the City of Forest Grove with recordable Easement for the ongoing use, maintenance, repair and reconstruction of such trail.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:**

**Section 1.** The Forest Grove City Council approves and authorizes the City Manager, or designee, to endorse and finalize with Metro any minor changes to the Intergovernmental Agreement, attached as Exhibit A, on behalf of the City of Forest Grove.

**Section 2.** Upon execution of the IGA, the City of Forest Grove agrees to work cooperatively with Metro to successfully complete the B Street Trail.

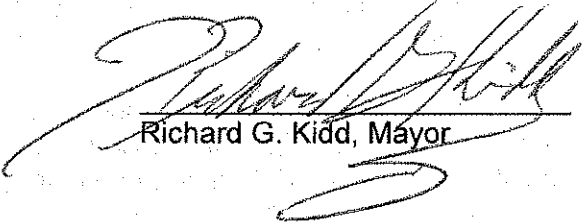
**Section 3.** Upon the conclusion of the satisfactory construction of the trail described herein on the Metro Property, Metro agrees, subject to the provisions of the IGA, to provide the City of Forest Grove with recordable Easement for the ongoing use, maintenance, repair and reconstruction of such trail.

**Section 4.** This resolution is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** this 11<sup>th</sup> day of February, 2008.

  
Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 11<sup>th</sup> day of February, 2008

  
Richard G. Kidd, Mayor