

**AUTHORIZATION FOR
AGREEMENTS, MOUs, OR
OTHER DOCUMENTS OBLIGATING
THE CITY**

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: NEWTS - Addendum No. 2 Date: 1-11-22

Statement of Purpose: 2nd Addendum to clear up inspection requirements and future trail development

Department Head Signature: [Signature]

Remarks, if any: _____

City Attorney Review and Signature: [Signature] Date: 1/24/2022

Other Signatures as Requested by the City Attorney: _____

Name/Position
Date: _____

Budget Confirmed: Signature
Yes ☐ No ☐ N/A ☒

Certificate of Insurance Attached: Yes ☐ No ☐ N/A ☒

City Council Approval Needed: Yes ☐ No ☒ Date: _____

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature] Date: 1-28-22

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

Dear Sir,
I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the above matter.

I am sorry to hear that you are not satisfied with the result of the examination.

I have been very anxious to see that the examination was conducted in a fair and equitable manner, and I am sure that the result is the best that could be expected under the circumstances.

I am, Sir, very respectfully,
Your obedient servant,
J. H. [Signature]

**Addendum No. 2 to Right of Entry and License Agreement
Between City of Newport and Newport Trail Stewards**

THIS ADDENDUM is to the Right of Entry and License Agreement between the City of Newport, Oregon (City) and Newport Trail Stewards (Licensee).

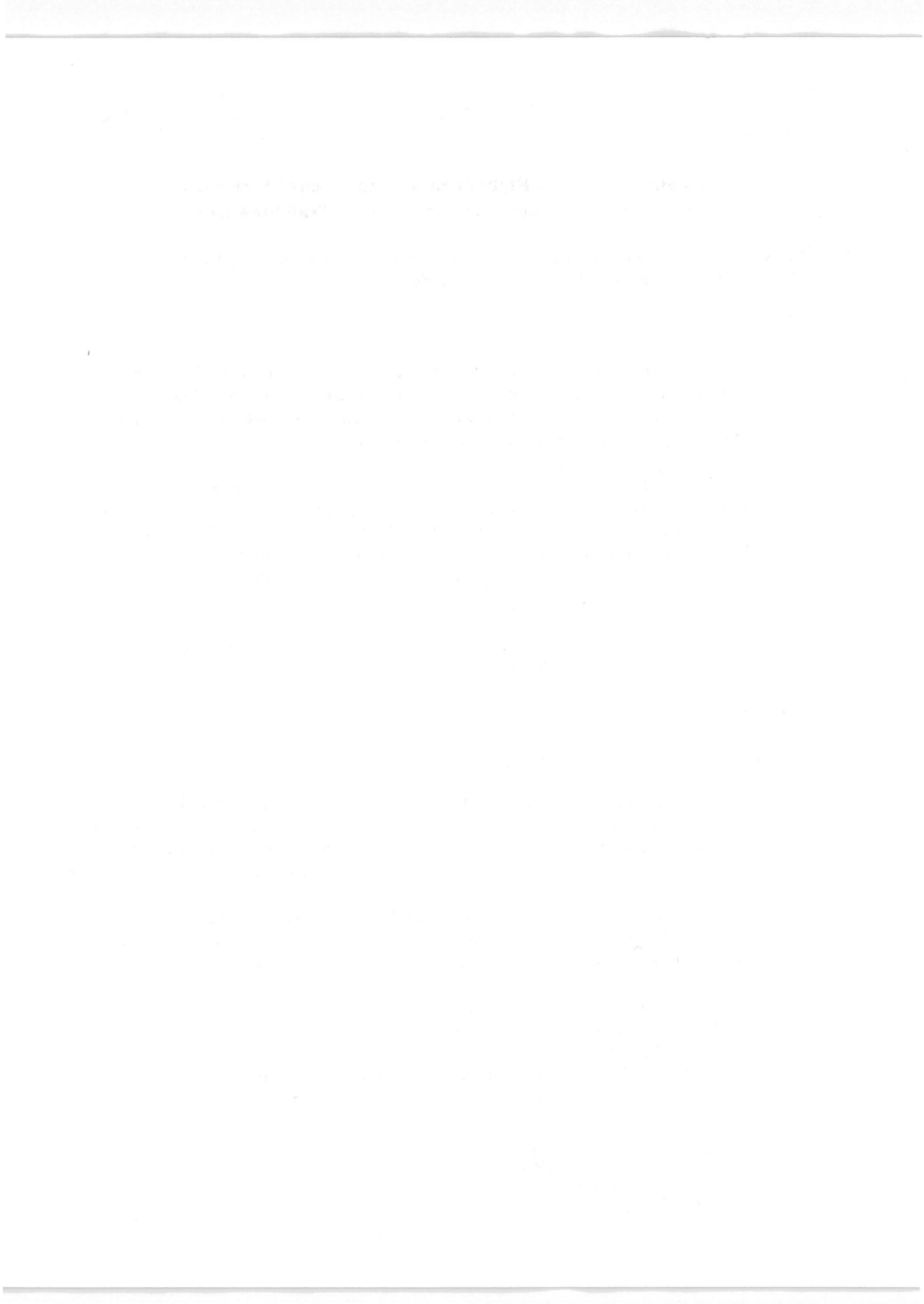
Recitals:

1. City and Licensee entered into a right of entry and license agreement dated February 25, 2020 (Agreement) to permit Licensee to enter the property described in Exhibit A to the Agreement to develop, construct, preserve, and maintain recreational trails for purposes of bicycling and other non-motorized uses on the property.
2. On February 26, 2021, City and Licensee entered into an addendum to the Agreement, in which the Work performed by Licensee would be subject to inspection standards set forth in Exhibit 1 to the addendum, with inspection schedules to be developed by City and Licensee through a subsequent form of agreement. As set forth in Section 1 of the Agreement, Work means the development, construction, preservation, and maintenance of recreational trails.
3. City and Licensee desire to incorporate the following terms as part of the Agreement, effective on the date of the last signature below.

Terms of Addendum No. 2:

City and Licensee agree to amend the Agreement as follows:

- A. Licensee will coordinate the naming of recreational trails with City in accordance with the process set forth in Newport Municipal Code 2.35.030 (naming of recognition items). City has final approval and encourages trail naming based on historical references or natural features. For example, a trail named for a geologic feature that it passes or is near.
- B. Licensee, with the assistance of City, will coordinate and prepare a plan for future recreational trail development prior to construction. Specific recreational uses will be determined through the planning process. The plan must include, at a minimum:
 1. A list of proposed trails to be constructed.
 2. A list of allowed recreational uses for each trail, including where and when they are allowed.
 3. A map showing locations of anticipated support facilities (e.g. restrooms, parking areas, kiosks, etc.) and recreational use zones.



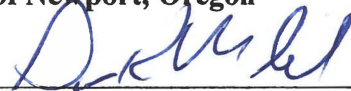
- C. It is not feasible to inspect every trail on a weekly or monthly basis. Therefore, a bi-annual meeting between Licensee and City will take place to inspect all trails, to review development progress and any operational issues or maintenance standards, and to exchange ideas and information.
- D. After receiving any report of observed defects or hazards, including from members of the public, Licensee and City will attend the site of the reported defect or hazard to determine the repairs necessary to be undertaken. Licensee will submit a completion report to the Parks and Recreation Director and/or their designee(s) within 48 hours of repairing the defect or hazard. The following repair guidelines (Table 1-1) will apply:

Table 1-1

Routine Maintenance	Minor deficiencies identified and repaired at time of inspection.
Non-hazardous Deficiencies	Response is to a failure that would not affect services. Response time is within three business days of receiving notification, personnel will attend the site to review the issue, and the repair will be scheduled within one month.
Safety Deficiencies	Response is to hazards or critical failure of an item. Response time is within 24 hours of receiving notification, personnel will attend the site to review the issue, and the repair will be scheduled within a week. Immediate repairs required. Trail is isolated or placed out of service until repairs are completed.

Except as expressly set forth herein, all provisions of the Agreement shall continue and remain in full force and effect.

City of Newport, Oregon

By: 

Title: City Manager

Date: 01-28-22

Newport Trail Stewards

By:  (THOMAS FOLL)

Title: DIRECTOR

Date: 1/17/22

**Addendum to Right of Entry and License Agreement
Between City of Newport and Newport Trail Stewards**

THIS ADDENDUM is to the Right of Entry and License Agreement between the City of Newport, Oregon (City) and Newport Trail Stewards (Licensee).

Recitals:

1. City and Licensee entered into a right of entry and license agreement dated February 25, 2020 (Agreement) to permit Licensee to enter the property described in Exhibit A to the Agreement to develop, construct, preserve, and maintain recreational trails for purposes of bicycling and other non-motorized uses on the property.
2. City and Licensee desire to incorporate the following terms as part of the Agreement, effective on the date of the last signature below.

Terms of Addendum:

City and Licensee agree to amend the Agreement as follows:

- A. Licensee will obtain and maintain in force at all times during the term of the Agreement a policy or policies of commercial general liability insurance with liability limits of at least \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate, naming the City and its officers, board members, employees, and agents as additional insureds.
- B. The Work activities to be performed by Licensee, as set forth in Section 1 of the Agreement in accordance with National Park Service and International Mountain Bicycling Association (IMBA) trail design standards as approved by City, are subject to the inspection standards in attached Exhibit 1. Inspection schedules will be developed by City and Licensee through a memorandum of understanding (MOU) or other form of agreement as between them.
- C. In Section 5.1 of the Agreement, the word "circumference" is replaced with "diameter" so the first sentence of Section 5.1 provides, "City requires that, wherever reasonably possible, live trees with a diameter of greater than 4 inches be left undisturbed, unless authorized by City."

Except as expressly set forth herein, all provisions of the Agreement shall continue and remain in full force and effect.

City of Newport, Oregon

By: _____

Title: City Manager

Date: 02/26/21

Newport Trail Stewards

By: _____

Title: TREASURER

Date: 2/22/21



EXHIBIT 1

Big Creek Multi-use & Bike Trail Inspection Standards

Purpose

All trails that will come under these Trail Inspection Standards must be inventoried, have scheduled inspections, and scheduled servicing when maintenance is needed. Inspectors will file reports and maintain records on all inspection and servicing requirements for each section of trail. Inspection schedules will be developed by the City of Newport and the NEWTS in a corresponding document.

Priorities

Effective risk management requires that safety, security, and critical signage issues take precedence over other issues such as vegetation clearing, surfacing servicing, branch removal, and remedial work. In some cases, environmental issues may require immediate response.

Trail Development Standards

All work activities related to Big Creek Reservoir Trails shall be performed in accordance with National Park Service and International Mountain Bicycling Association (IMBA) trail design standards, and are defined in the attached charts.

It must be emphasized that water erosion will be the largest detrimental force for trails in the Big Creek Reservoir area. Trails located on steep slopes could be especially prone to turning into drainages when not properly constructed. Care must be taken, especially on steeper trails, to provide for proper water management.

Trail Kiosks and Signage

Kiosks and signs are a critical part of trail management. They provide vital information to trail users to enable them to make informed choices about trail use by identifying trail difficulty rating, risks, length, and primary use.

Design and size must be approved by City of Newport for all signage and kiosks used at trailheads, trail connections/links, and trail directional signage. Design and color schemes should be consistent with kiosks and signs.

The following information should be considered when designing kiosks and signage:

1. Trail name(s).
2. Trail distance/directional information and any special features, degree of difficulty symbols, etc.
3. User and restriction symbols including "No motorized vehicles" symbol.
4. "Use at your own Risk" and "Please Keep Clean" and other appropriate risk management requirements, such as uneven terrain, blind corners, etc.
5. Separate or add-on signage – includes but is not limited to trail map, special safety considerations, trail etiquette info, "No Motorized Vehicles" signage.






National Park Service Trail Development Standards

Trail Type [®]	Vertical Clearance	Corridor Clearance	Treadway Width	Surfacing Materials	Trail Length	Grade
Hiking	8-10 feet	4-8 feet	4-6 feet	Bare soil, rocks, stone dust, or wood chips. May have hardened surface (concrete, asphalt or boardwalks) in high use areas.	0.25 – 5 mi. (1/2 day) 5-15 mi. (full day)	0-5%; Max – 15% sustained; 40%+ shorter than 50 yd.; Out slope – 4% max
Mountain Biking	8-10 feet	1.5-6 ft (1 lane)	Novice – 36 in Intermediate – 24-30 in Advanced – 12-18 in	Firm natural surface including soil, rocks, wood; hardened surface for wet areas.	Min. – 5 mi. loop (1.5-2 hour) 15-25 mi. of linear or loop trails (day trip)	Overall grade not to exceed 10%. Climbing turns not to exceed 7-12%. Out slope of 3-5%



IMBA Trail Difficulty Rating System



	 EASIEST WHITE CIRCLE	 EASY GREEN CIRCLE	 MORE DIFFICULT BLUE SQUARE	 VERY DIFFICULT BLACK DIAMOND	 EXTREMELY DIFFICULT DBL. BLACK DIAMOND
TRAIL WIDTH	72" (1,800 mm) or more	36" (900 mm) or more	24" (600 mm) or more	12" (300 mm) or more	6" (150 mm) or more
TREAD SURFACE	Hardened or surfaced	Firm and stable	Mostly stable with some variability	Widely variable	Widely variable and unpredictable
AVERAGE TRAIL GRADE	Less than 5%	5% or less	10% or less	15% or less	20% or more
MAXIMUM TRAIL GRADE	Max 10%	Max 15%	Max 15% or greater	Max 15% or greater	Max 15% or greater
NATURAL OBSTACLES AND TECHNICAL TRAIL FEATURES (TTF)	None	Unavoidable obstacles 2" (50 mm) tall or less Avoidable obstacles may be present Unavoidable bridges 36" (900 mm) or wider	Unavoidable obstacles 8" (200 mm) tall or less Avoidable obstacles may be present Unavoidable bridges 24" (600 mm) or wider TTF's 24" (600 mm) high or less, width of deck is greater than 1/2 the height	Unavoidable obstacles 15" (380 mm) tall or less Avoidable obstacles may be present May include loose rocks Unavoidable bridges 24" (600 mm) or wider TTF's 48" (1,200 mm) high or less, width of deck is less than 1/2 the height Short sections may exceed criteria	Unavoidable obstacles 15" (380 mm) tall or less Avoidable obstacles may be present May include loose rocks Unavoidable bridges 24" (600 mm) or narrower TTF's 48" (1,200 mm) high or greater, width of deck is unpredictable Many sections may exceed criteria





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/14/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Nicholas Hill Group, Inc. 1586 S. 21st Street, Suite 200 Colorado Springs, CO 80904	CONTACT NAME: Andrea Slate	
	PHONE (A/C No. Ext): 719-694-2595	FAX (A/C No.):
INSURED Newport Trail Stewards 150 NW 6th Street Newport, OR 97365	E-MAIL: andrea@nicholashillgroup.com	
	ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Everest National Insurance Company	
	INSURER B:	
	INSURER C:	
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	S18MQ00019-201	9/29/2020	9/29/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ N/A PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 300,000 \$
<input type="checkbox"/>	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<input type="checkbox"/>	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
<input type="checkbox"/>	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A			PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

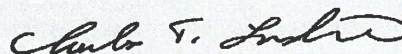
Certificate holder is added as additional insured per form ECG 20 600 - Additional Insured - Automatic Status When Required in a Written Agreement with you on a Primary and Noncontributory basis under the General Liability Insurance and shall include a Waiver of Subrogation in favor of the additional insured.

City of Newport and its officers, board members, employees, and agents are added as additional insureds.

CERTIFICATE HOLDERCity of Newport
Newport City Hall
169 SW Coast Hwy
Newport, Oregon 97365**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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ACORD 25 (2014/01)

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RIGHT OF ENTRY AND LICENSE AGREEMENT

DATED: February 25, 2020

(the "Effective Date")

BETWEEN: CITY OF NEWPORT, OREGON

("City")

AND: NEWPORT TRAIL STEWARDS

("Licensee")

Recitals:

- A. City owns the real property described in the attached Exhibit A (the "Property"). The Property is located approximately 1.5 miles East of Big Creek Park. Licensee desires to develop, construct, preserve and maintain recreational trails for the purposes of bicycling and non-motorized uses on the Property. The Property subject to this Agreement is located entirely within Tax Lot 100, Section 34, T.10 South, R.11 West (approximately 150 acres).**
- B. Licensee is an Oregon not for profit corporation. Licensee desires to obtain from City a license to enter the Property to develop, construct, preserve, and maintain recreational trails for diverse user groups, including bicycling and other non-motorized uses, on the Property subject to and in accordance with the terms and conditions of this Right of Entry and License Agreement (this "Agreement").**

Agreements:

In consideration of the foregoing and the mutual covenants of the parties contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

- 1. Right of Entry and License. Subject to the terms of this Agreement, City grants Licensee reasonable and non-exclusive access to the Property for the purpose of undertaking the development, construction, preservation and maintenance of recreational trails (the "Work"). All of the Work shall be undertaken and completed at Licensee's sole cost and expense, without liens upon the Property and fully in conformance with all applicable statutes, laws, ordinances, rules, regulations, and government requirements. The parties intend that the Work constitutes making use of the Property for "recreational purposes" without "charge" as those terms are defined in ORS 105.672. The parties acknowledge that this Agreement and the Work, may be impacted by anticipated construction of one or more new dams for the Big Creek Reservoir, and the parties further acknowledge such construction may displace or destroy part or all of the Work. Work reconstruction or rehabilitation that may be**

necessary due to the location and construction of the dams are the sole obligation, and at the sole expense, of Licensee. All the Work activities shall be performed in a good and workman-like manner in accordance with National Park Service and International Mountain Bicycling Association (IMBA) trail design standards as approved by the City. All debris, including brush and trimmings, shall be scattered upon the Property by Licensee.

2. **Term.** This Agreement shall commence on the date of the execution of this Agreement and shall continue thereafter until the Work is completed or until the City terminates the Agreement, whichever occurs first.
3. **Notice of Termination.** This Agreement may be terminated by City for any reason, including no reason, upon 30 days' notice prior to such termination.
4. **AS IS.** Licensee accepts the Property, AS IS, WHERE IS, with all faults, latent and patent, without any representation or warranty by City, expressed or implied, and Licensee hereby assumes all risk and liability with respect to the Work on the Property. City expressly agrees that Licensee shall have no liability to City, other than for any damage or injury to the Property subject to this Agreement, and/or agents and employees on-site during the Work, or otherwise related to City's exercise of its rights under this Agreement.
5. **Maintenance of Property: the Work.** Licensee agrees that it shall maintain or cause to be maintained the area of the Work site in a safe condition during performance of the Work.
 - 5.1 City requires that, wherever reasonably possible, live trees with a circumference of greater than 4 inches be left undisturbed, unless authorized by City. Only after first obtaining City authorization, Licensee shall, at its expense, remove such trees.
 - 5.2 Except as allowed in Section 5.1, the Licensee acknowledges that no timber is to be cut or removed from the Property at any time, including during the Work. Should brush and/or timber less than 4 inches in diameter encroach upon any trail, it will be the exclusive responsibility of Licensee to remove same. City shall have no obligation to maintain any of the Work during construction or thereafter.
6. **Permits and Approvals.** Before Licensee undertakes any activities on the Property, Licensee, at its own risk and expense, shall first obtain any and all permits, approvals, consents with respect to the Work or other activity, on the Property. **Right of Way permits** are required for all excavation work, whether by hand or mechanical/mechanized means, and installation of any culvert or other structures, during the Work and thereafter as part of preservation, maintenance, rehabilitation or construction.

10-10-10

10-10-10

7. **Indemnity.** During the term of this Agreement, to the fullest extent not prohibited by applicable law, Licensee shall indemnify, reimburse, defend, and hold harmless City and City's officers, employees, agents, and their respective successors and assigns for, from and against all claims, liabilities, losses, liens, damages, costs and expenses (including reasonable attorneys' fees) arising out of damage or injury to persons or property caused by negligent acts or intentional misconduct of Licensee or any agent or employee of Licensee, or its successors and assigns. Licensee shall require any contractor contributing to the Work, if any, to provide this same indemnity for the benefit of City.
8. **Notices.** All notices, requests and other communication under this Agreement shall be in writing and shall be sent by United States mail, registered or certified, return receipt requested, recognized overnight courier prepaid, electronic mail or facsimile in accordance with the following instructions:

To City: Spencer Nebel, City Manager
 169 SW Coast Highway
 Newport, Oregon 97365
 Phone: 541-574.0603
 Facsimile: 541.574.0609
 Email: s.nebel@newportoregon.gov

To Licensee: Newport Trail Stewards (NEWTS)
 c/o Thomas Follett
 150 NW 6th Street
 Newport, Oregon 97365
 Phone: 541.265.7989
 Email: Newport.newts@gmail.com

or such other person or address which City or Licensee shall designate upon notice as herein provided. All such notices, requests, and other communications shall be deemed to have been sufficiently given for all purposes hereof on the date such notice was deposited in the manner hereinabove required, emailed or faxed, as the case may be.

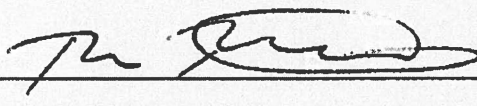
9. **Signage.** As part of the Work, appropriate "wayfinding" signage and a trailhead kiosk (with maps, guidelines and rules for trail usage) as approved by City, shall be constructed and placed by Licensee to identify parking areas and trails. Signage shall also display usage rules applicable to the recreational trails. Signage shall be maintained and replaced, as determined is appropriate by the City, at the sole expense of Licensee.
10. **Miscellaneous Provisions.** This Agreement constitutes the entire agreement between the parties with respect to the Property and Work thereon. No failure of City to enforce

any term of this Agreement shall be deemed a waiver of such term in any other instance. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall continue to be valid and enforceable to the fullest extent. In the event any suit or other action is undertaken to enforce or interpret any term of this Agreement, the losing party shall pay the reasonable attorneys' fees incurred by the prevailing party in such suit or other action and any appeal or review thereof.

11. **Counterparts.** This Agreement may be signed in counterparts, which counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

NEWPORT TRAIL STEWARDS

Name:  (THOMAS FOLLETT)
Title: TREASURER

CITY OF NEWPORT, OREGON



Spencer R. Nebel, City Manager

EXHIBIT A

Description of the Property

The Property subject to this Agreement is located entirely within Tax Lot 100, Section 34, T.10 South, R.11 West (approximately 150 acres).

10/10/2020

10/10/2020

10/10/2020

10/10/2020