

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING AN) RESOLUTION NO. 01-3053
EASEMENT TO THE JOINT WATER)
COMMISSION FOR NON-PARK USE)
THROUGH METRO PROPERTY)
ADJACENT TO FERN HILL ROAD IN) Introduced by Mike Burton,
WASHINGTON COUNTY) Executive Officer

WHEREAS, Metro owns 45 acres of regionally significant natural area near the Tualatin River, in the Gales Creek target area, purchased with Metro Open Spaces, Parks and Stream bond funds; and

WHEREAS, the City of Hillsboro and the Joint Water Commission is requesting a permanent and a temporary construction easement through property owned by Metro, located in Forest Grove, on the west side of Fern Hill Road, as identified in Exhibit A; and

WHEREAS, the purpose of the easement is to install a 72-inch diameter potable water transmission line through the property for approximately 480 linear feet; and

WHEREAS, the Metro Easement Policy, adopted by the Metro Council via Resolution No. 97-2539B for properties managed by the Metro Parks and Greenspaces, Department, requires formal review of all easement requests by the Regional Parks and Greenspaces Advisory Committee, the Metro Natural Resources Committee and the full Metro Council; and

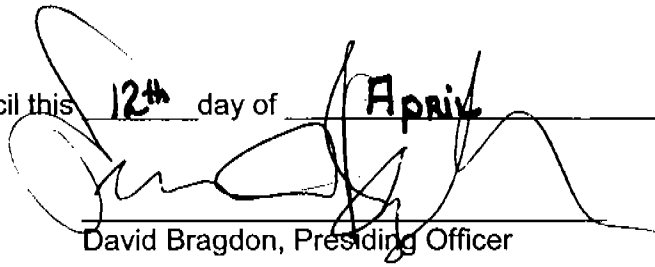
WHEREAS, the Metro Parks and Greenspaces Department has determined that this easement request can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and

WHEREAS, the Metro Regional Parks and Greenspaces Advisory Committee met on February 6, 2001 and recommended approval of the proposed easement; now therefore,

BE IT RESOLVED,

That the Metro Council hereby authorizes the Executive Director to grant an easement, as identified in Exhibit A, to the City of Hillsboro and the Joint Water Commission to install a 72-inch potable water transmission line through Metro property, adjacent to the Fern Hill Road right-of-way.

ADOPTED by the Metro Council this 12th day of April, 2001.


David Bragdon, Presiding Officer

Approved as to form:

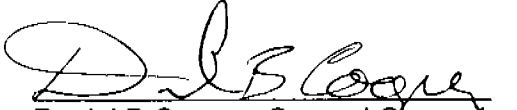

Daniel B Cooper, General Counsel



Exhibit A
Resolution No. 01-3053

After Recording Return To:

Joel E. Morton
Metro, Office of General Counsel
600 NE Grand Avenue
Portland, OR 97232

**PERMANENT WATER LINE EASEMENT AND
TEMPORARY WATER LINE CONSTRUCTION EASEMENT AGREEMENT**

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **Metro**, a municipal corporation and political subdivision of the State of Oregon (hereafter, “Grantor”), does hereby grant unto the **City of Beaverton**, a municipal corporation, the **City of Hillsboro**, a municipal corporation, the **City of Forest Grove**, a municipal corporation, and the **Tualatin Valley Water District**, a domestic water supply district, acting as the Joint Water Commission (collectively, the “Commission”), subject to the easements and encumbrances of record, and subject to the terms and conditions hereafter provided, a non-exclusive permanent water line easement (hereafter, the “Easement”), and a non-exclusive, two-year, water line construction access easement (hereafter, the “Construction Easement”), legally described on Exhibit A and depicted on Exhibit B, attached hereto and by this reference incorporated herein.

Easement:

A. Rights: By this grant, the Commission shall receive an Easement in, upon and across Grantor’s Property, situated in the County of Washington, State of Oregon and described in Exhibit A attached hereto, to construct and operate the North Transmission Waterline – Phase 2 Project subsurface water system improvement structures and all subsurface appurtenances incident thereto (collectively, the “Facilities”) within the Easement area, together with the rights of ingress and egress to and access on and along the Easement for pedestrians, vehicles and equipment to construct, remove or replace the Facilities and conduct periodic inspections, maintenance and repair activities.

B. Reservations: Grantor reserves all other rights to the use of the Easement, including but not limited to, the full use and enjoyment of the Easement’s surface area, at any time, and in any manner, including: the right to plant trees and landscape the Easement; pave the surface of the Easement; use the Easement for a bicycle pedestrian trail, driveway, or parking area; and the right to store materials and equipment on the Easement. Grantor reserves the right to locate other subsurface utilities within the Easement with the express written permission of the Commission, which permission shall not be unreasonably withheld.

Notwithstanding the above, the Commission shall have exclusive rights to the surface area of the Easement during the two-year construction period following the Effective Date of this Easement set forth below, no buildings shall be built by Grantor within the Easement, and no structure, improvement or impoundment of any kind shall be constructed, which causes surface water to gather and collect in the Easement. In the exercise of its rights hereunder, Grantor shall not interfere, hinder or conflict with the Commission's rights herein, and shall not disturb the Facilities.

C. Responsibilities: The Commission agrees that, in the conduct of any and all their activities on the Easement, they will not interfere, hinder or conflict with Grantor's right to use and enjoy the surface of the Easement, except during the two-year construction period set forth above and as temporarily necessary to periodically inspect, maintain, repair, remove or replace the Facilities. Before undertaking any activity that will result in the disturbance of the surface of the Easement or otherwise create a hazardous condition, the Commission shall provide safety measures protecting the general public and/or natural area visitors from the Commission's activities. Except during the two-year construction period set forth above, the Commission shall provide Grantor with notice of their activities prior to entering the Easement area. Notwithstanding the above, emergency repairs may be made without notice to Grantor. Upon the completion of the Facilities or on the expiration of two years from the Effective Date hereinbelow, whichever occurs first, the Commission shall: repair any damage or disturbance to the surface of the Easement caused by the exercise of the Commission's rights hereunder; restore the vegetated surface of the Easement to Grantor's specifications, including plant density and species; and restore or repair any improvements and paving damaged or disturbed by the Commission's activities on the Easement to Grantor's satisfaction. As soon as practicable after any inspection, maintenance, repair, removal and reconstruction activities causing damage or disturbance to the surface of the Easement, the Easement area shall be restored and repaired as set forth above.

D. Duration: This Easement is granted on the express condition that the Commission use the Easement solely for the purposes of locating and operating the Facilities. If the Easement is ever used for another purpose by the Commission, or if the Easement ever ceases to be used for said purposes, the Grantor may re-enter and terminate the Easement hereby granted. The Easement shall be otherwise perpetual in duration. When the Commission ceases to use the Easement for locating and operating the Facilities, at Grantor's request, the Commission shall remove the Facilities and restore the Property as set forth above.

Construction Easement:

A. Rights: By this grant, the Commission shall receive a Construction Easement upon and across the surface of Grantor's Property, situated in the County of Washington, State of Oregon, described in Exhibit A attached hereto, together with the rights of ingress and egress to and access on and along the Construction Easement for pedestrians, vehicles and equipment, to construct and install the North Transmission Waterline – Phase 2 Project and associated facilities (collectively, the "Facilities") within the Easement set forth above.

B. **Reservations:** Grantor reserves all other rights to the use of the Construction Easement that are not inconsistent with the rights the Commission granted herein. Notwithstanding the above, in the exercise of its rights herein, Grantor shall construct no structures on the surface of the Construction Easement nor interfere, hinder or conflict with the Commission's rights herein.

C. **Responsibilities:** Before undertaking any activity that will result in the disturbance of the surface of the Construction Easement or otherwise create a hazardous condition, the Commission shall provide safety measures protecting the general public and/or natural area visitors from the Commission's activities. Upon the completion of the Facilities or on the expiration of two (2) years from the Effective Date hereinbelow, whichever occurs first, the Commission shall: repair any damage or disturbance to the surface of the Construction Easement caused by the exercise of the Commission's rights hereunder; restore the vegetated surface of the Easement to Grantor's specifications, including plant density and species; and shall restore or repair any improvements and paving damaged or disturbed by the Commission's activities on the Construction Easement to Grantor's satisfaction.

D. **Duration:** This Construction Easement shall be effective for a period of two (2) years from the Effective Date. The Commission hereby agrees to execute and record a quit claim deed on the two (2) year anniversary of the Effective Date, if requested by Grantor.

Indemnity: To the maximum extent permitted by law and subject to the Oregon Tort Claims Act, ORS Chapter 30, the Commission shall defend, indemnify, and save harmless Grantor, their officers, employees, and agents from and against any and all actual or alleged claims, demands, judgements, losses, damages, expenses, costs, expenses, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, and/or penalties, which may be imposed upon or claimed against Grantor and which, in whole or in part, directly or indirectly, arise from or are in any way connected with: (i) the act, omission or negligence of the Commission, their officers, directors, agents, employees, invitees, contractors or subcontractors; (ii) the construction, maintenance or operation of the Facilities in the Easement and Construction Easement by the Commission, whether or not due to the Commission's own act or omission and whether or not occurring on the Easement; and (iii) any breach, violation or nonperformance of any of the Commission's obligations under this Agreement.

Covenants: The Commission covenant and agree that, in the conduct of any and all of their activities and operations hereunder, they will comply strictly with all present and future laws, rules and regulations of all federal, state, and local governmental bodies having jurisdiction over the construction, installation, operation and maintenance of the Facilities.

Grantor represents and warrants that this grant of Easement and Construction Easement does not violate any of the terms or conditions of any other agreement to which Grantor is a party, and that the grant of the Easement further does not require the consent or approval of any party other than Grantor.

Notice: Notice under this Easement and Construction Easement shall be in writing to address set forth below, and shall be deemed received on the seventh (7th) day after deposit with the U.S. Mail, certified return receipt requested.

To: Charlie Ciecko
Metro Parks and Greenspaces Director
600 NE Grand Ave.
Portland, Oregon 97232-2736

The terms, conditions and provisions of this grant shall extend to and be binding upon the successors and assigns of the Grantor and the Commission.

IN WITNESS WHEREOF, Grantor and the Commission have executed this PERMANENT WATER LINE EASEMENT AND TEMPORARY WATER LINE CONSTRUCTION EASEMENT AGREEMENT this _____ day of _____, 2001 (the "Effective Date").

GRANTOR:

METRO

By: _____
Mike Burton, Executive Officer

JOINT WATER COMMISSION:

CITY OF BEAVERTON

By: _____
Its: _____

CITY OF FOREST GROVE

By: _____
Its: _____

CITY OF HILLSBORO

By: _____
Its: _____

TUALATIN VALLEY WATER DISTRICT

By: _____
Its: _____

Attachments:

- Exhibit A** **Permanent Water Line Easement and
Temporary Water Line Construction Easement**
- Exhibit B** **Map**

Exhibit A
Permanent Water Line Easement
and
Temporary Water Line Construction Easement

A TRACT OF LAND LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 8 AND THE NORTHWEST ONE-QUARTER OF SECTION 17, TOWNSHIP 1 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON, BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN DEED TO METRO, RECORDED NOVEMBER 17, 1998, DOCUMENT NO. 98129487, WASHINGTON COUNTY DEED RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY NORTHEAST CORNER OF SAID METRO TRACT, BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF FERN HILL ROAD (30.00 FEET FROM CENTERLINE); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE S.11°45'25"W., 480.76 FEET; THENCE N.03°18'39"E., 278.92 FEET; THENCE N.09°15'37"E., 212.29 FEET; THENCE N.05°50'46"W., 2.94 FEET TO THE NORTHERLY LINE OF SAID METRO TRACT; THENCE ALONG SAID NORTHERLY LINE S.67°09'22"E., 52.07 FEET TO THE POINT-OF-BEGINNING, CONTAINING 15207 SQUARE FEET, MORE OR LESS.

TOGETHER WITH A TEMPORARY EASEMENT FOR CONSTRUCTION PURPOSES, LYING WEST OF AND PARALLEL WITH THE FOREGOING DESCRIBED PERMANENT EASEMENT, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE FOREGOING DESCRIBED PERMANENT EASEMENT; THENCE S.05°50'46"E., 2.94 FEET; THENCE S.09°15'37"W., 212.29 FEET; THENCE S.03°18'39"W., 278.92 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF FERN HILL ROAD (30.00 FEET FROM CENTERLINE); THENCE ALONG SAID RIGHT-OF-WAY LINE S.11°45'25"W., 142.53 FEET; THENCE 28.77 FEET ALONG THE ARC OF A 1402.40 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 01°10'32" (THE LONG CHORD BEARS S.12°20'41"W., 28.77 FEET) TO THE SOUTHERLY LINE OF SAID METRO TRACT; THENCE ALONG SAID SOUTHERLY LINE S.69°39'57"W., 56.57 FEET; THENCE N.13°31'28"E., 153.82 FEET; THENCE N.03°18'39"E., 322.22 FEET; THENCE N.09°15'37"E., 208.26 FEET; THENCE N.05°50'46"W., 23.67 FEET TO THE NORTHERLY LINE OF SAID METRO TRACT; THENCE ALONG SAID NORTHERLY LINE S.67°09'22"E., 57.00 FEET TO THE POINT-OF-BEGINNING.

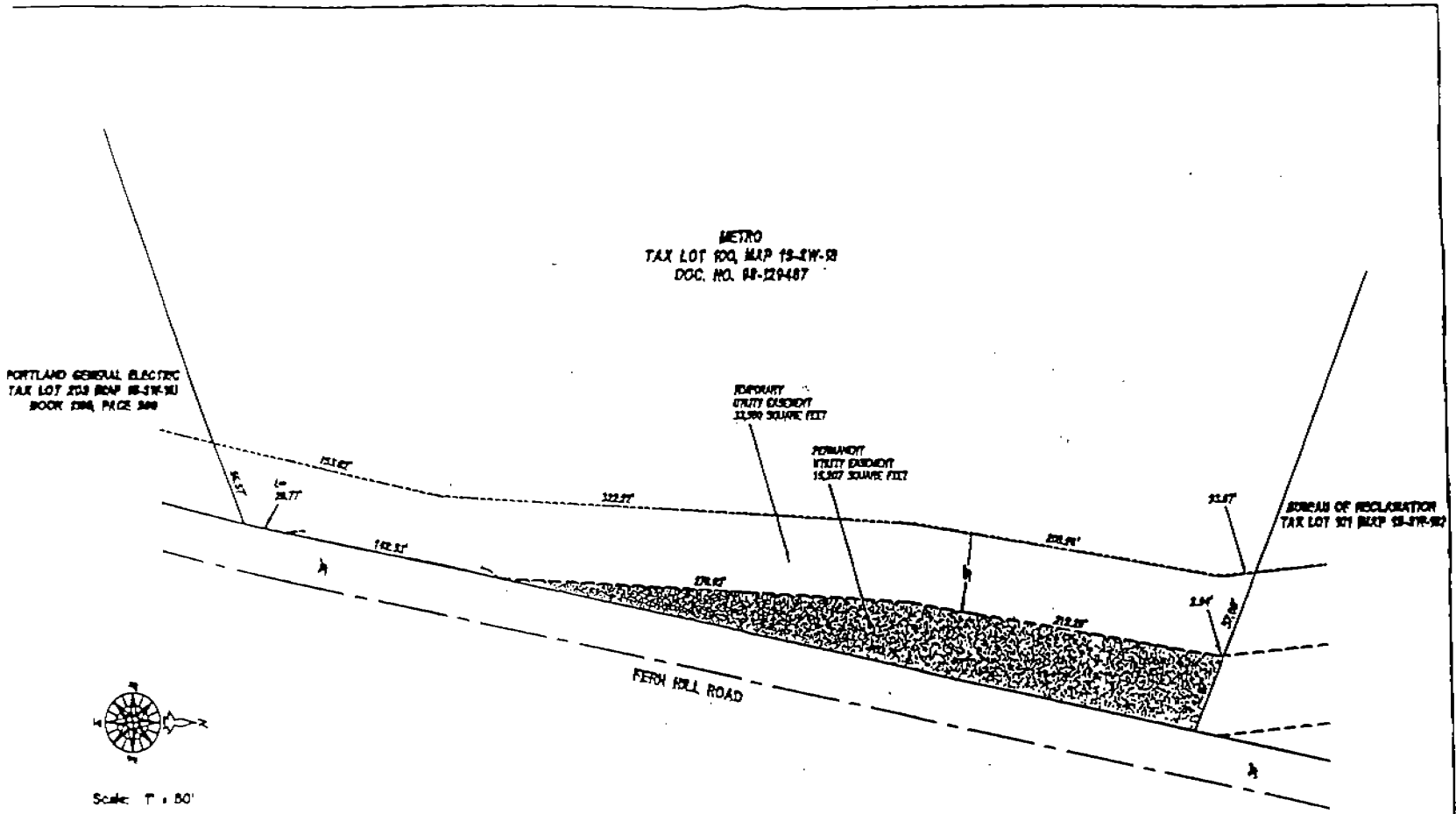


EXHIBIT MAP "B"

DATE	BY	REVISION
10/2/00		



COMPASS ENGINEERING
 ENGINEERING SURVEYING PLANNING

JOINT WATER COMMISSION
 NORTH TRANSMISSION LINE - PHASE 2
 NW 1/4 SEC. 8, S 31W 1/4 SEC. 17, T2N, 24W, W4
 WILKINSON COUNTY, GEORGIA

State of Oregon)
)
ss.
 County of _____)

On this _____ day of _____, 2001, before me _____, the undersigned Notary Public, personally appeared MIKE BURTON as Executive Officer of METRO, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

 My commission expires: _____

State of Oregon)
)
ss.
 County of _____)

On this _____ day of _____, 2001, before me _____, the undersigned Notary Public, personally appeared _____ as _____ of the CITY OF BEAVERTON, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

 My commission expires: _____

State of Oregon)
)
ss.
 County of _____)

On this _____ day of _____, 2001, before me _____, the undersigned Notary Public, personally appeared _____ as _____ of the CITY OF FOREST GROVE, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

 My commission expires: _____

State of Oregon)
) *ss.*
County of _____)

On this _____ day of _____, 2001, before me _____, the undersigned Notary Public, personally appeared _____ as _____ of the CITY OF HILLSBORO, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

My commission expires: _____

State of Oregon)
) *ss.*
County of _____)

On this _____ day of _____, 2001, before me _____, the undersigned Notary Public, personally appeared _____ as _____ of TUALATIN VALLEY WATER DISTRICT, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

My commission expires: _____

NATURAL RESOURCES COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 01-3053, FOR THE PURPOSE OF GRANTING AN EASEMENT TO THE JOINT WATER COMMISSION FOR NON-PARK USE THROUGH METRO PROPERTY ADJACENT TO FERN HILL ROAD IN WASHINGTON COUNTY

Date: April 6, 2001

Presented by: Councilor McLain

Committee Action: At its April 4, 2001 meeting, the Natural Resources Committee voted 2-0 to recommend Council adoption of Resolution 01-3053. Voting in favor: Councilors McLain and Hosticka.

Background: Charles Ciecko and Laurie Wulf presented this issue to the committee. The city of Hillsboro and the Joint Water Commission are requesting an easement through Metro parks property in the Gales Creek target area. The purpose of the easement is to install a 72-inch water line for a distance of approximately 480 feet. The easement is determined by Parks staff to result in no significant disturbance to the resources of the site, and to otherwise meet the requirements of the easement policy. Areas that are disturbed will be restored with native vegetation by the applicant.

- Existing Law: Resolution 97-2539B established Metro policy concerning the granting of easements and rights-of way on parks property and facilities.
- Budget Impact: Metro will be reimbursed for staff time relative to the processing of the request. No other remuneration will be involved with this transaction.

Committee Issues/Discussion: The committee inquired as to whether the granting of this easement would result in any ongoing revenue. Metro's easement policy requires that Metro receive no less than fair market value compensation for all easements. In this case, the cost of the appraisal was worth more than the value of the land involved.

Staff Report

IN CONSIDERATION OF RESOLUTION NO. 01-3053 FOR THE PURPOSE OF GRANTING AN EASEMENT TO THE JOINT WATER COMMISSION FOR NON-PARK USE THROUGH METRO PROPERTY ADJACENT TO FERN HILL ROAD IN WASHINGTON COUNTY

Date: March 23, 2001

Presented by: Charles Ciecko

Proposed Action

Resolution No. 01-3053 would provide Metro Council authorization for the Joint Water Commission to acquire an easement through 481 linear feet of property owned by Metro off of Fern Hill Road in Forest Grove (tax lot 100).

Existing Law

Metro Council Resolution 97-2539B approved general policies related to the review of easements, right-of-ways, and non-park uses through properties managed by the Regional Parks and Greenspaces Department. The resolution established a Metro policy related to the review of easements, right of ways, and leases for non-park uses (hereafter, the "Easement Policy"), providing for a formal review of all proposed easements, and final review and approval by the full Council.

Factual Background and Analysis

Metro owns 45 acres of regionally significant natural area near the Tualatin River, in the Gales Creek target area. The property is located on the west side of Fern Hill Road and is known as the "Maroon Property."

Metro has received and reviewed an easement application from the Joint Water Commission, which is made up of the City of Beaverton, the City of Forest Grove, the City of Hillsboro, and the Tualatin Valley Water District (hereafter, the "Easement"). The Joint Water Commission is requesting a permanent easement for a 72-inch diameter potable water transmission line through Metro's "Maroon Property." The alignment of the pipeline is adjacent to the Fern Hill Road right-of way and varies in width from 0 to 52 feet on Metro property for a total of 15,207 square feet. The Joint Water Commission is also requesting a 33,560 square foot temporary construction easement. The application and proposal meet all criteria set forth in the Metro Easement Policy.

Findings

- The Regional Parks and Greenspaces Department has determined that the proposed Easement will have minimal impact on Metro's natural area, as detailed in Attachment B. The loss of vegetation caused by construction of the underground pipeline will result in no significant impact to the property's natural resource value. The habitat value is limited by exotic vegetation on this portion of the site, consisting

mostly of blackberry and non-native grasses. There are no trees on this portion of the property that will be impacted. There are no known listed threatened and endangered animal or plant species on the parcel sought for the Easement.

- No alternative alignments outside the Metro natural area are feasible.
- The proposed Easement is determined to be consistent with the Greenspaces Master Plan.
- The proposed Easement requires the applicant to restore the site after construction and revegetate the disturbed area with native vegetation according to Metro specifications.

The Regional Parks and Greenspaces Advisory Committee considered this proposal at its February 6, 2001 meeting and recommended approving the Easement.

Budget Impact

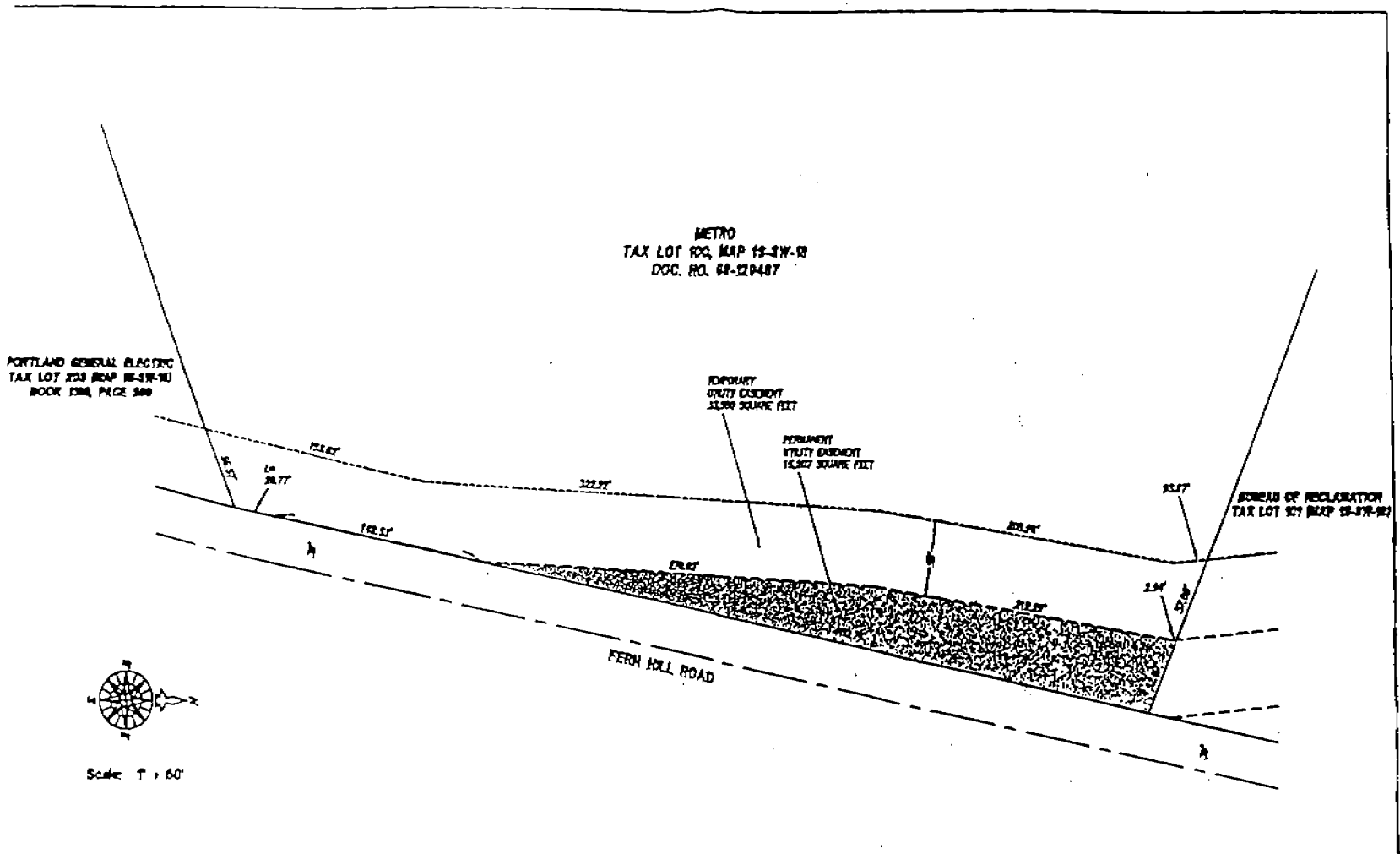
The area sought for the Easement has been determined to have only nominal value by Metro's contract review appraiser. Metro will therefore receive no monetary compensation for this Easement. In accordance with the Easement Policy, Metro will be reimbursed by the applicant for Metro staff time spent in reviewing, negotiating, processing, and approving this application.

Map

A map showing the project/easement boundaries is attached as Attachment A.

Executive Officer's Recommendation

The Executive Officer recommends that the Council adopt Resolution No. 01-3053.



PERMANENT WATER LINE EASEMENT AND
 TEMPORARY WATER LINE CONSTRUCTION EASEMENT AGREEMENT
 ORIGINATED 12/17/2011
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DATE PLOTTED	11/20/11
SCALE	1"=60'
DATE	11/20/11
BY	ALG



COMPASS ENGINEERING
 ENGINEERING SURVEYING PLANNING
 1125 W. 10th St. Suite 100
 Des Moines, IA 50319

JOINT WATER COMMISSION
 NORTH TRANSMISSION LINE - PHASE 2
 RTW 1/4 SEC. 6, & RTW 1/4 SEC. 17, T24, R12W, W4
 WASHINGTON COUNTY, OHIO

**Attachment B
Resolution 01-3053**

Metro Easement Policy Criteria and Staff Findings

- 1) Provide for formal review of all proposed easements, rights of ways, and leases for non-park uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.**

Staff Finding: Criterion has been satisfied through a review and approval process that includes formal easement application and approval from the Regional Parks and Greenspaces Advisory Committee. The Metro Natural Resource Committee and full Council body will review the easement prior to approval.

- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.**

Staff Finding: The applicant proposes to install a 72-inch potable water transmission line through Metro's Maroon Property, adjacent to the Fern Hill Road right-of-way, while not impacting any natural resource or park values.

- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.**

Staff Finding: The pipe will be buried and planted over with native plants and grasses (but no trees directly over pipe due to roots potentially penetrating the pipeline). There are no trees on this portion of the property that will be impacted. All excavated material that is not used for backfill will be removed from the site. The easement will have negligible impact on park or natural resource values.

Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way, or non-park use can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

Staff Finding: Meets criteria.

- 4) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.**

Staff Finding: No mitigation is required given the minimal impact.

- 5) **Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The dimensions and terms of the easement are limited to accommodate pipe installation, and are not transferable or assignable to adjacent properties.

- 6) **Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The construction easement time and space limitations are the minimum needed to accomplish the project while minimizing impact on Metro property. The long-term easement encompasses the water transmission line and is consistent with that occurring along the project length.

- 7) **Require reversion, non-transferable, and removal and restoration clauses in all easements, rights of ways, and leases.**

Staff Finding: Access easement will include these terms.

- 8) **Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying, or assuring compliance with the terms of any easement, right of way, or lease for non-park use.**

Staff Finding: Metro staff assigned to this application has documented time and costs spent on this application and informed the applicant of the policy requiring reimbursement. Execution of the easement is subject to satisfaction of all expenses.

- 9) **Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than money.**

Staff Finding: Metro found that the cost of an appraisal was more than the fair market value for the small portion of land.

- 10) **Require full indemnification from the easement, right of way or leaseholder for all costs, damages, expenses, fines, or losses related to the use of the easement, right of way, or lease. Metro may also require insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.**

Staff Finding: The easement will include indemnification and insurance provisions.

- 11) **Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.**

Staff Finding: No exception requested.

12) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:

A. The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute unfeasibility.

Staff Finding: Applicant has submitted a detailed proposal including all required information.

B. Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities, which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exist all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.

Staff Finding: No additional information is needed.

C. Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.

Staff Finding: No reasonable alternative alignments outside the Metro natural area are feasible.

D. If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

Staff Finding: No significant negative impact on Metro property will occur.

E. Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval. In no event shall construction of a project commence prior to formal approval of a proposal.

Staff Finding: Construction is contingent upon approval.

F. Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way, or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.

Staff Finding: Metro costs have been documented and applicant will be billed for reimbursement.

G. Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state, or local jurisdiction requirements.

Staff Finding: Criterion satisfied.