

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING AN  
EASEMENT TO CLEAN WATER SERVICES  
FOR THE PLACEMENT OF TWO PARALLEL  
24" SEWER MAIN PIPELINES THROUGH  
METRO PROPERTY

RESOLUTION NO. 09-4074

Introduced by Chief Operating Officer  
Michael J. Jordan, with the concurrence of  
Council President David Bragdon

WHEREAS, Metro owns natural area real property along Rock Creek in the City of Hillsboro, Washington County, State of Oregon (herein the "Metro Property"); and

WHEREAS, Clean Water Services currently has a 72" trunk sewer line and corresponding easement running in a southwesterly to northeasterly direction through Metro Property; and

WHEREAS, Clean Water Services is requesting a 20' wide and 730' long (14,577 sq. ft.) permanent sanitary sewer easement running south to north through Metro Property to install two parallel 24" diameter sewer forcemain pipelines using horizontal directional boring, and has submitted an Application for Permanent Easement for Non-Park Uses for that purpose; and

WHEREAS, the easement will not restrict the future planting of trees or shrubs on Metro Property; and

WHEREAS, Clean Water Services will be required to perform mitigation on Metro Property by removing and performing follow-up control of Himalayan blackberry throughout the 8.1 acre site; and

WHEREAS, staff has determined no reasonable alternative alignment routes exists outside of Metro Property; and

WHEREAS, Metro Parks and Environmental Services has determined that this easement request has met the criteria in 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," adopted by the Metro Council on November 6, 1997 (the "Easement Policy"), as identified in Attachment 1 to the Staff Report to this resolution, and can be accommodated with minimal impact to natural resources, cultural resources, recreational resources, recreational facilities, recreational opportunities or their operation and management, and recommends approval; and

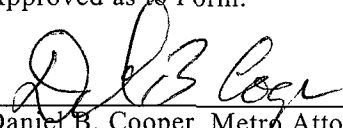
WHEREAS, the Easement Policy requires review of all easement requests by the full Metro Council, now therefore

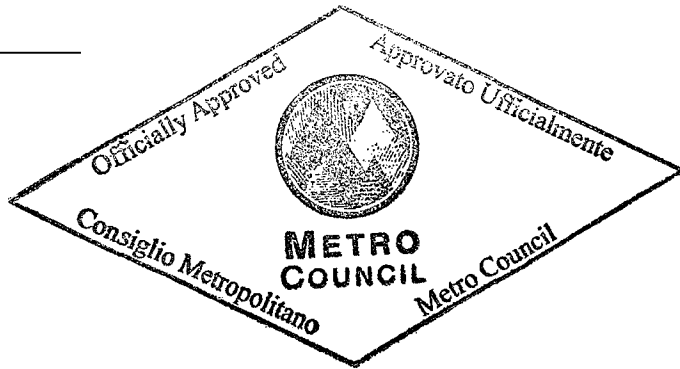
BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to grant a permanent subsurface sewer pipeline easement to Clean Water Services as depicted in Exhibit A, as shall be further set forth in an instrument approved by the Office of Metro Attorney.

ADOPTED by the Metro Council this 10 day of SEPT. 2009.

  
David Bragdon, Council President

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney



DK:gbc  
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PLAN  
SCALE: 1" = 50'

REV	DATE	BY	DESCRIPTION

DESIGNED
DRAWN
CHECKED
DATE FEB 2009

30% SUBMITTAL

PROJECT ENGINEER



CLEAN WATER SERVICES  
 DAWSON CREEK FORCE MAIN & PUMP STATION  
 CIVIL  
 METRO  
 SITE PLAN AND EASEMENT BOUNDARIES

VERIFY SCALES  
 BAR IS ONE INCH ON ORIGINAL DRAWING  
 0 1"  
 IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY

JOB NO.  
7558E.00  
 DRAWING NO.  
CF-505  
 SHEET NO.  
OF XX

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 09-4074, FOR THE PURPOSE OF GRANTING AN EASEMENT TO CLEAN WATER SERVICES FOR THE PLACEMENT OF TWO PARALLEL 24" SEWER MAIN PIPELINES THROUGH METRO PROPERTY

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Date: September 10, 2009

Prepared by: Dan Kromer

## BACKGROUND

Metro Parks and Environmental Services occasionally receives requests for easements, leases and right-of-ways through Metro-developed park and natural area properties. These requests are reviewed and analyzed per guidance and policy established via 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 Regional Parks And Greenspaces Department," adopted by Council on November 6, 1997.

Metro Parks and Environmental Services received an easement application from Clean Water Services (CWS) which has been reviewed by staff (Attachment 1). CWS is requesting a 20' wide and 730' long (14,577 sq. ft.) permanent sanitary sewer easement running south to north through Metro property in Hillsboro. The proposal calls for using horizontal directional boring to install two parallel 24" diameter sewer forcemain pipelines. The high density polyethylene (HDPE) pipelines will be installed 30'-50' underground so no site disturbance will occur. No temporary construction easement is being requested due to the use of horizontal directional boring. CWS currently has a 72" trunk sewer line and corresponding easement running in a south westerly to north easterly direction through the site. The line and easement were in place prior to Metro's purchase of the property.

No natural resource impacts would occur to the site with the use of horizontal directional boring, nor will the easement restrict the future planting of trees or shrubs. CWS will be required to perform site mitigation by removing and doing follow up control of Himalayan blackberry throughout the 8.1 acre site.

Staff has determined no reasonable alternative alignment routes exists outside of Metro property and given the minimal site disturbance that will occur and the mitigation that will be performed, supports the easement request.

## ANALYSIS INFORMATION

1. **Known Opposition:** No known opposition.
2. **Legal Antecedents:** 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" adopted November 6, 1997.
3. **Anticipated Effects:** The easement will cause minimal site disturbance and not prohibit future tree and/or shrub planting. Metro property will be enhanced by the removal and control of Himalayan blackberry.
4. **Budget Impacts:** Clean Water Services will pay Metro staff costs for processing this request, as well as compensating Metro on the fair market value of the easement.

## RECOMMENDED ACTION

Staff recommends that the Council grant the easement as requested.

**Metro Easement Policy Criteria and Staff Findings**

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park uses to Metro 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: Pursuant to Criteria 13, Metro staff is recommending an easement on Metro property be granted to the applicant (Clean Water Services), so review and approval by the Metro Council is necessary.

- 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 is requesting a 20' wide, 730' long (14,577 sq. ft.) permanent sanitary sewer easement running south to north through Metro property in Hillsboro. The proposal calls for using horizontal directional boring to install two parallel 24" diameter sewer forcemain pipelines. The high density polyethylene (HDPE ) pipelines will be installed 30'-50' underground so no site disturbance will occur. No temporary construction easement is being requested due to the use of horizontal directional boring.

The applicant currently has a 72" trunk sewer line and corresponding easement running in a southwesterly to northeasterly direction through the site. The line and easement were in place prior to Metro's purchase of the property.

- 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: There will be no significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management to the site by the requested easement due to the use of horizontal directional boring.

- 4) 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: There is no master nor management plan for the site; habitat values in and around the proposed easement areas are marginal with high infestation of Himalayan blackberry and reed canarygrass throughout the site. Even though no natural resource impacts would occur to the site with the use of horizontal directional boring, the applicant is willing to do site mitigation by removing Himalayan blackberry throughout the 8.1 acre site and doing follow-up control.

- 5) 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: The applicant is proposing to remove the invasive Himalayan blackberry from the entire 8.1-acre parcel as part of its mitigation plan. This will involve a controlled application of herbicide spray on the canes/vines and then, a few weeks later, physical removal of the canes.

**6) 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 of the new permanent easement request are the minimum needed to allow for the new sewer line to be installed.

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

Staff Finding: The permanent easement being requested is the minimum needed to accomplish the project while minimizing impact on Metro's property. Because of the depth of the pipeline to be installed, the easement will not restrict the future planting of trees or shrubs above.

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

Staff Finding: All easements include these terms.

**9) 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 the easement request has documented time and costs associated with reviewing the application and have informed the applicant of the policy requiring reimbursement. Easement approval is subject to satisfaction of all expenses.

**10) 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: The value of the easement is \$1,000, based on an appraisal report done by an accredited appraiser and review by Metro.

**11) 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 Metro Attorney.**

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

**12) 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: There is no master or management plan for the site.

**13) 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: The applicant has submitted a detailed proposal and stated there is only one alternative route for the forcemain pipeline. This alternative is an indirect route which would add nearly 3,000' of pipeline to the project and require it to cross Rock Creek at or near an existing bridge, have a longer crossing at the Tualatin Valley Highway and create significant conflicts with existing utilities at the east end of SE Witch Hazel Road. According to the applicant, these reasons, as well as ongoing additional energy requirements and construction, pumping and maintenance costs make this alternate route unfeasible.

- 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: Staff has determined no reasonable nor feasible alternative alignment route exists outside of Metro property, given the additional requirements/conflicts of the alternative route, the minimal site disturbance to Metro property that will occur, and the enhancement opportunities the proposed mitigation would offer.

- 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: There will be no significant negative impact on Metro property.

- 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.