

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING AN)	RESOLUTION NO. 05-3549
EASEMENT TO PACIFICORP FOR NON-PARK)	
USE OVER THE OMSI-SPRINGWATER TRAIL)	Introduced by Chief Operating Officer
CORRIDOR)	Michael J. Jordan, with the concurrence of
)	Council President David Bragdon

WHEREAS, Metro owns and the City of Portland Parks and Recreation manages the OMSI-Springwater Trail Corridor on the eastside of the Willamette River in southeast Portland (now known as the "Springwater on the Willamette Trail");

WHEREAS, PacifiCorp is requesting a permanent aerial easement and associated construction and maintenance easement to relocate a 115KV power transmission line and remove an antiquated existing steel power transmission tower on the Springwater on the Willamette Trail;

WHEREAS, PacifiCorp has agreed to pay Metro's cost and expenses to process this permanent easement request and the \$917.00 fair market value for the easement area; will remove the existing tower, and will install a raptor pole and move the Osprey nest to a platform constructed on top of the raptor pole; and

WHEREAS, the Metro Regional Parks and Greenspaces Department 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 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 no impact to natural resources, cultural resources, recreational resources, recreational facilities, recreational opportunities or their operation and management; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to grant a permanent aerial easement and associated construction and maintenance easement to PacifiCorp for installation and maintenance of a power transmission line over the Springwater on the Willamette Trail, as depicted in Exhibit A and set forth in the Easement Agreement attached as Exhibit B to this Resolution.

ADOPTED by the Metro Council this 5th day of May, 2005.

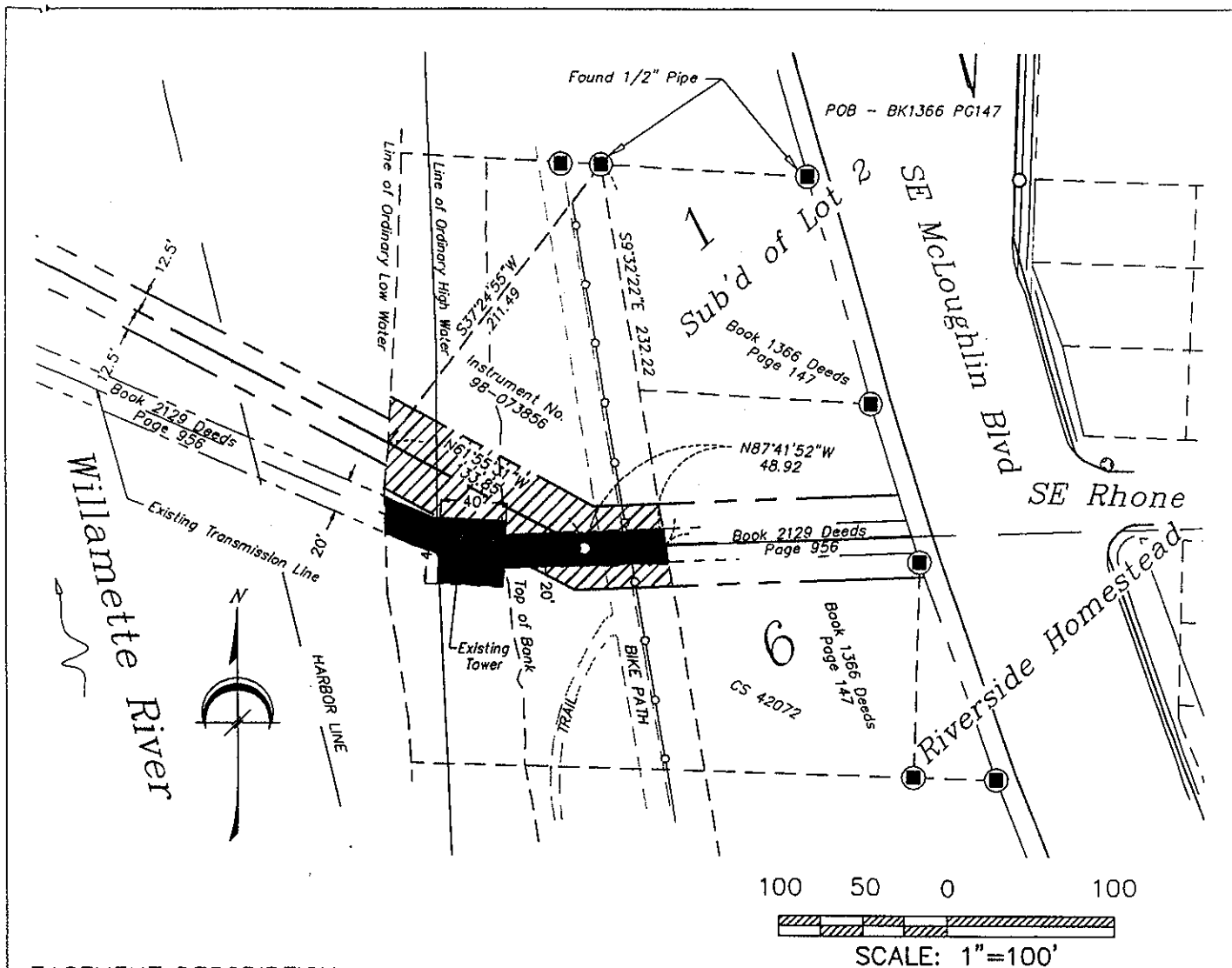


[Signature]
David Bragdon, Council President

Approved as to Form:

[Signature]
for Daniel B. Cooper, Metro Attorney

Exhibit A
Depiction of PacifiCorp's Permanent Aerial, Construction and Maintenance Easement



EASEMENT DESCRIPTION:

A right-of-way 50 feet wide over and across that property described in Instrument No 98-073856 within the Subdivision of Lot 2 of Riverside Homestead, Records of Multnomah County, Oregon, in the Sherry Ross Donation Land Claim in Section 11 in Township 1 South, Range 1 East of the Willamette Meridian in the City of Portland, Multnomah County, Oregon. The boundaries of said right-of-way way lie 25 feet perpendicularly distant on each side of the survey line and are to be extended or shortened to terminate on the Westerly and Easterly property lines of said property. The survey line is more particularly described as follows:

Beginning at a point on the East line of said property that bears S.9°32'22"E., 232.22 feet from the Northeast corner of said property, evidenced by a 1/2 inch pipe; thence N.87°41'52"W. 48.92 feet; thence N.61°55'31"W., 133.85 feet to the line of ordinary low water line of the Willamette River, a point that bears S.37°24'55"W., 211.49 feet from the Northeast corner of said property.

Contains 0.21 acres, more or less, of which contains 0.05 acres of the existing transmission line easement as described in a deed filed in Book 2129 of Deeds on Page 956, Records Multnomah County, Oregon.

The Basis of Bearings for this exhibit is the Oregon State Coordinate System, North Zone NAD83(CORS96)(EPOCH:2002.0000)

**Exhibit A-1 of 2, Reso. No. 05-3549
 Depiction of PacifiCorp's Permanent Aerial,
 Construction and Maintenance Easement**

THIS DRAWING SHOULD BE USED ONLY AS A REPRESENTATION OF THE LOCATION OF THE EASEMENT BEING CONVEYED. THE EXACT LOCATION OF ALL STRUCTURES, LINES AND APPURTENANCES IS SUBJECT TO CHANGE WITHIN THE BOUNDARIES OF THE RIGHT OF WAY HEREIN GRANTED.

REV	DATE	DESC.	BY	CHK	APP
ER/PR					
DATE	03/9/05				
ENG	DES				
DR	TLH	CH MRH			
APP	MRH				

HARRISON - LINCOLN 115 kV TRANSMISSION LINE Metro Right-of-Way Exhibit A		 PACIFICORP PACIFIC POWER
SHEET	1 of 1	
		SCALE 1"=100'
		REV.

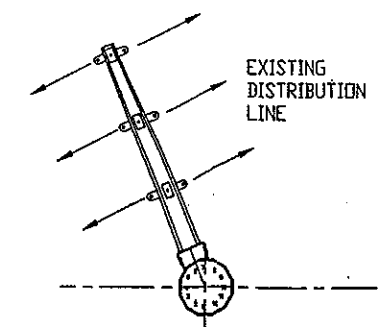
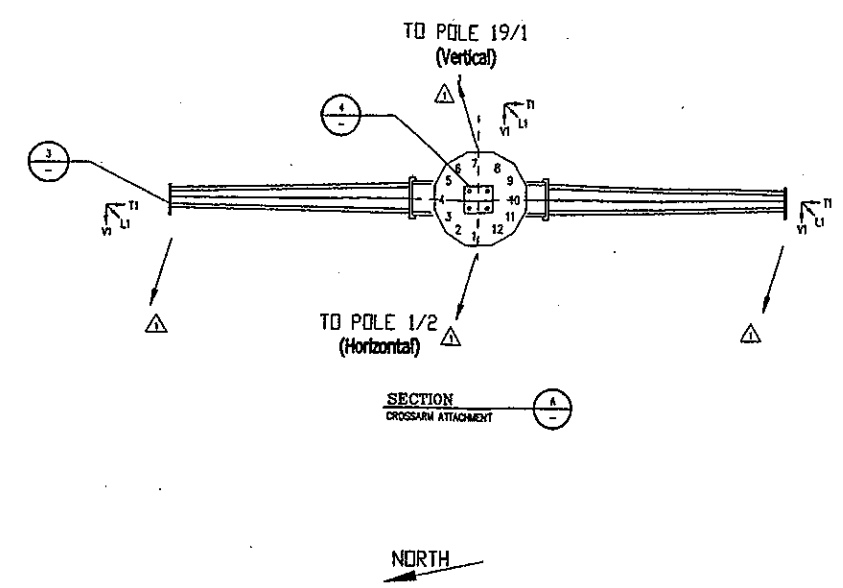
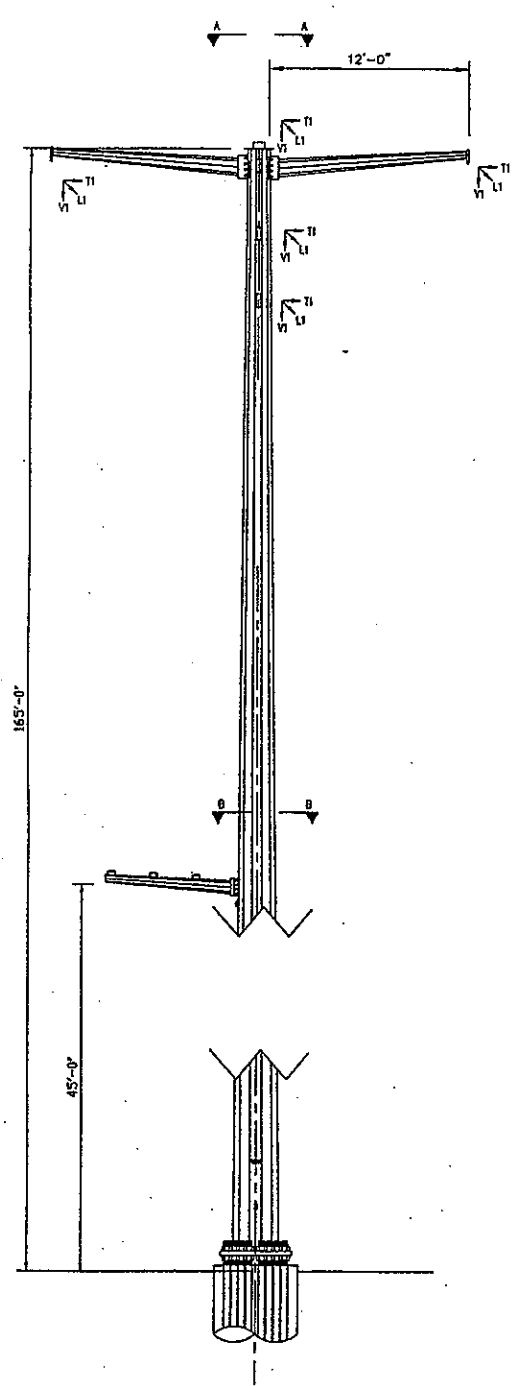


Exhibit A-2 of 2, Reso. No. 05-3549
 Depiction of PacifiCorp's Permanent Aerial,
 Construction and Maintenance Easement

Exhibit F-5

PROJ#	11585-001	PORTLAND OREGON	
DRN		HARRISON-LINCOLN 115KV T. LINE	
DATE	03/17/05	GENERAL ARRANGEMENT	
CHKD	JLV	DES	JLV
DR	JLV	CHK	MAT
APPROVAL			
BY	BCV	PACIFICORP TRANSMISSION ENGINEERING	
SCALE/NOTE	SHEET 1 of 2		REV.

Exhibit B
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

Exhibit B, Resolution No. 05-3549
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

After Recording Return To:
PacifiCorp
Attn: Ed Rush
825 NE Multnomah, Suite 1000
Portland OR 97232

**AERIAL POWER TRANSMISSION LINE,
MAINTENANCE AND CONSTRUCTION EASEMENT AGREEMENT**

THIS AERIAL POWER TRANSMISSION LINE, MAINTENANCE AND CONSTRUCTION EASEMENT AGREEMENT (the "Easement") is entered into this _____ day of _____ 2005, between Metro, a municipal corporation and political subdivision of the State of Oregon ("Grantor") and PacifiCorp, an Oregon corporation ("Grantee"). All references to Grantor and Grantee herein apply equally to Grantor's and Grantee's personal representatives, heirs, successors, and assigns.

A. Grantor owns property known as Riverside Homestead Sub Lot 2, Block 1 & 6 TL 9100 Map 3431, City of Portland, Multnomah County, Oregon, Multnomah County Tax Parcel No. R257388, Assessor's Map No. 1S 1E 11CB 9100, more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Trail Property").

B. Grantee wishes to acquire, and Grantor wishes to grant, an aerial easement providing Grantee with the right to install, operate, maintain, repair and replace electric power transmission lines overhanging the surface of the Trail Property (the "Facilities"). Said Easement shall be located as more particularly described and depicted on the attached Exhibit B.

C. In return for the grant of this Easement by Grantor, Grantee wishes to modify and amend its existing easement, recorded in the Official Records of Multnomah County, Oregon at Book 2129, Page 956, to provide that the no surface appurtenances, including towers, poles, props, guys and other supports shall be placed on the Trail Property in such a way that they materially interfere with the pedestrian trail now existing on the Trail Property.

AGREEMENT

NOW, THEREFORE, for and in consideration of the sum of NINE HUNDRED SEVENTEEN DOLLARS (\$917.00) and other good and valuable consideration, the receipt and sufficiency of which is stated herein below and acknowledged by Grantor, the parties hereby agree as follows:

Exhibit B, Resolution No. 05-3549
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

1. GRANT OF EASEMENT. Grantor hereby grants and conveys to Grantee, its successors and assigns, a perpetual easement for access and construction, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal of electric power transmission lines to overhang the surface of the Trail Property, as more particularly described and/or shown on Exhibit A. The surface rights contained in the Easement hereby granted are for access only for the purposes set forth above.

2. RELATED RIGHTS. Grantor hereby grants to Grantee the related right to intermittently access the right-of-way from the adjacent lands of Grantor for all activities in connection with the purposes for which this Easement has been granted.

3. SURFACE DAMAGES. In exercising its rights hereunder, the Grantee shall repair any damage or disturbance to the Trail Property and adjacent lands of Grantor that may be caused by the exercise of the Grantee's rights, and shall restore the surface of the Easement to its condition immediately prior to such damage or disturbance, including restoring or repairing any improvements, paving or landscaping damaged or disturbed by the Grantee's activities on the Easement, to Grantor's reasonable satisfaction, and revegetate any disturbed areas. If such restoration is impracticable, the Grantee shall then pay Grantor the fair market value of all damages to be determined by an MAI appraiser knowledgeable about property values in the area.

4. GRANTOR'S USE OF THE EASEMENT AREA. Grantor may use those portions of the Trail Property subject to the Easement for any purposes that will not interfere with Grantee's rights under this agreement. In particular, and without limiting the generality of the foregoing, public pedestrian and bicycle trail use and other public recreational uses are permitted, and Grantor may plant native vegetation, lawn, grass, shrubbery, bushes, trees, and any other landscaping elements in a manner such that they will not exceed 12 feet in height. At no time shall Grantor place, use or permit any equipment, material or vegetation of any kind that exceeds 12 feet in height, light any fires, place or store any flammable materials on or within the boundaries of the right-of-way, unless approved in writing by Grantee. Such approval may not be withheld unreasonably.

5. MODIFICATION OF GRANTEE'S EXISTING EASEMENT. Grantee received a Right-of-Way Easement dated June 30, 1988 (the "1988 Easement") over Grantor's Property. This 1988 Easement was recorded on August 17, 1988, in Book 2129, Page 956, Multnomah County Recorder's Office. The parties acknowledge that the real property affected by the 1988 Easement overlaps a portion of the real property affected by this Easement (the "Overlap Property") and that Grantee's right to use this Overlap Property shall be those rights provided in both the 1988 Easement and this Easement in favor of Grantee. This Overlap Property is further depicted on Exhibit A attached hereto and by this reference incorporated herein. Grantee agrees and hereby modifies the 1988 Easement to provide that no surface appurtenances, including towers, poles, props, guys and other supports shall be placed on the Trail Property in the future in such a way that they materially interfere with the pedestrian trail now existing on the Trail Property. Except as modified herein, the 1988 Easement remains unchanged and in full force and effect.

Exhibit B, Resolution No. 05-3549
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement

6. OWNERSHIP OF TRAIL PROPERTY. Grantor represents and warrants that it is the owner in fee of the said described land and is entitled to execute this Easement, which shall be subject to all encumbrances of record.

7. COVENANTS. 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 laws, rules and regulations of all federal, state, and local governmental bodies having jurisdiction over the construction, installation, and transmission line operation activities occurring within the Easement, and that it will obtain all permits required, if any, by the City of Portland.

8. INDEMNIFICATION. Grantee shall defend, indemnify, and save harmless Grantor its officers, employees, and agents from and against any and all actual or alleged claims, demands, judgments, losses, damages, injuries, 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 the intentional or negligent act or omission of the Grantee, its officers, directors, agents, employees, invitees, contractors or subcontractors in exercising the rights set forth in Section 1 and 2 above, except to the extent resulting from Grantor's intentional or negligent act or omission. Notwithstanding the foregoing, Grantee shall not be liable to Grantor hereunder for any punitive, exemplary, or consequential damages or damages for lost profits.

9. BINDING EFFECT/REVERSIONARY INTEREST. This Easement shall bind and inure to the benefit of the Grantee and its successors and assigns forever and shall constitute a covenant running with the Grantor's Trail Property. However, this Easement is granted on the express condition that the Grantee use the Easement for the purposes set forth in Section 1 and 2 above. If the Easement is ever used by the Grantee for purposes other than those set forth in Sections 1 and 2 above without the express written permission of Grantor, and Grantee fails to cease said use within thirty (30) days after delivery of written notice from Grantor, the Grantor may re-enter and terminate the Easement hereby granted. This Easement and all interest of Grantee hereunder shall terminate at such time that Grantee ceases to use the Easement for a period of ten (10) years, whereupon Grantor may re-enter and terminate the Easement hereby granted.

10. COMPLETE AGREEMENT. This Easement (including the attached Exhibit "A," which is incorporated by this reference) is the final and complete agreement between the parties concerning the Easement.

11. APPLICABLE LAW. This Easement shall be governed by, and construed in accordance with, the laws of the State of Oregon.

10. WAIVER. Failure of either party at any time to require performance of any provision of this Easement shall not limit the parties' right to enforce the provision, nor shall any waiver of any breach of any provision of this Easement be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

**Exhibit B, Resolution No. 05-3549
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement**

11. SEVERABILITY. The determination that one or more provisions of this Easement is invalid, void or illegal or unenforceable shall not effect or invalidate the remainder of this Easement.

12. MODIFICATION. No amendment or modification of this Easement shall be valid unless in writing and signed by all parties hereto.

13. AUTHORITY. Metro warrants that, in the manner required by its governing laws, it has duly authorized the undersigned signer to execute the Easement on its behalf.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

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

Grantee:
METRO

Grantee:
PACIFICORP, and Oregon corporation

By: _____
Name: Michael J. Jordan
Title: Chief Operating Officer

By: _____
Name: _____
Title: _____

Attachments:

Exhibit A Trail Property Legal Description
Exhibit B Easement Depiction and Description

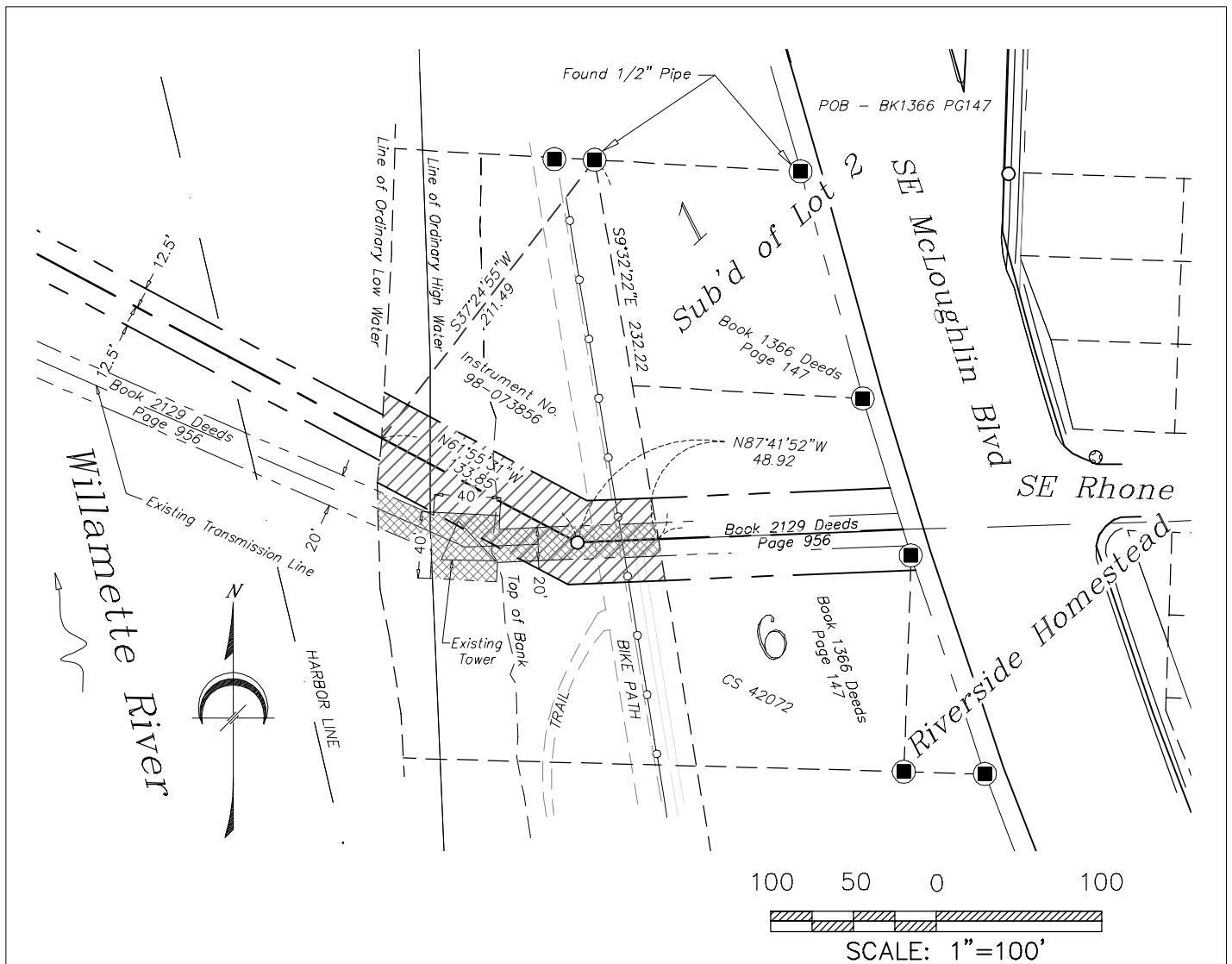
**Exhibit B, Resolution No. 05-3549
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement**

**Exhibit A
Trail Property – Legal Description**

All that portion of that certain property described in Instrument No. 98-073856, Records of Multnomah County, Oregon, located within the Subdivision of Lot 2 of Riverside Homestead in the Sherry Ross Donation Land Claim, in Section 11, Township 1 South, Range 1 East of the Willamette Meridian in the City of Portland, Multnomah County, Oregon.

**Exhibit B, Resolution No. 05-3549
PacifiCorp's Permanent Aerial, Construction and Maintenance Easement**

**Exhibit B
Easement Depiction and Description**



EASEMENT DESCRIPTION:

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Contains 0.21 acres, more or less, of which contains 0.05 acres of the existing transmission line easement as described in a deed filed in Book 2129 of Deeds on Page 956, Records Multnomah County, Oregon.

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REV	DATE	DESC.	BY	CHK	APP
ER/PR					
DATE	03/9/05	HARRISON - LINCOLN 115 kV TRANSMISSION LINE			
ENG	DES	Metro			
DR	TLH	CH	MRH	SHEET	1 of 1
APP	MRH	Right-of-Way Exhibit A-1		SCALE	1"=100'
				REV.	

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3549, FOR THE PURPOSE OF GRANTING AN EASEMENT TO PACIFICORP FOR NON-PARK USE OVER THE OMSI-SPRINGWATER TRAIL CORRIDOR

Date: April 22, 2005

Prepared by: Jim Desmond

BACKGROUND

The Metro Regional Parks and Greenspaces Department occasionally receives requests for easements, leases and right-of-ways across property that has been acquired through the 1995 Open Spaces, Parks and Streams Bond Measure. These requests are reviewed and analyzed per guidance and policy established via 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 Regional Parks and Greenspaces Department," adopted by the Metro Council on November 6, 1997 (the "Easement Policy").

Metro has received and reviewed an easement application from PacifiCorp, which meets all criteria set forth in the Easement Policy as set forth in Attachment 1 to this Staff Report. PacifiCorp is requesting an aerial easement over the Springwater on the Willamette Trail for the purpose of realigning its 115KV power transmission line to accommodate the development of the South Waterfront Project. The existing antiquated tower will be removed, and a new tower installed within PacifiCorp's pre-existing easement area. PacifiCorp's easement request also includes a construction access easement providing for the removal of the old tower and relocation of the power lines, and a permanent access easement for inspection and maintenance. The proposed easement varies in width and length, but is no more than 50 feet wide and 180 feet long.

Concerns have been raised by planners for the Portland Parks and Recreation Bureau that the new transmission tower location may limit the ability to widen the trail in the future. However, there is no plan, even at a conceptual or discussion stage, to widen the trail in the future, and the subject was never before raised with Metro until this easement request was received. It should also be noted that the applicant need not obtain Metro's approval to install the new tower, because it is being placed in PacifiCorp's pre-existing easement.

Based on a site visit, Metro staff believes that location of the new pole provides sufficient space for the trail width to be extended by 2 to 3 feet. Additionally, there is a wide bench of land west of the proposed PacifiCorp tower and existing PGE utility poles. Should trail usage increase, there is sufficient room to build a separate parallel trail for pedestrians to enjoy the art work, water views, etc. in the future. Therefore, the proposal does not limit future trail expansion.

Approval of the easement shall be conditional upon certain conditions being met. The existing transmission line easement must be modified to protect the trail in the future. The ground area shall be re-seeded and re-planted with native seed and plants per the specifications of the city of Portland. Removal of the existing tower must meet the conditions set by Metro related to risk management issues. Relocation of the osprey nest is subject to the requirements of ODF&W. The applicant must work with

city of Portland staff on a public relations plan to alert and redirect trail users during the construction process.

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 Regional Parks and Greenspaces Department," adopted by the Metro Council on November 6, 1997.
3. **Anticipated Effects:** Will allow for realignment of PacifiCorp's power transmission line to accommodate the South Waterfront Project.
4. **Budget Impacts:** PacifiCorp will pay staff costs for processing this request and \$917.00 fair market value for the easement.

RECOMMENDED ACTION

The Chief Operating Officer recommends that the Metro Council grant the easement as requested and the adoption of Resolution No. 05-3549.

ATTACHMENT 1
Resolution No. 05-3549

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 staff. The full Council will hear the request.

- 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 modify an existing easement by approximately a tenth of an acre. The modification is to accommodate the overhang of wires resulting from the relocation of a transmission tower. The new tower is staying within the existing easement.

- 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 easement will have minimal impact on park or natural resource values. If approved, the existing transmission tower will be removed from the Willamette Greenway buffer zone and a new tower installed outside the buffer but within the existing easement area. The additional easement is for wire overhang only. In addition, an osprey nest on the tower will be relocated to a new location with fewer hazards per the requirements of Oregon Department of Fish and Wildlife (ODF&W).

This easement will not have any impacts on natural or cultural resources, or recreational facilities since it involves only a minor expansion to air rights.

- 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: Meets criteria – see below.

- 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: Approval of the easement shall be conditional upon certain conditions being met. The ground area shall be re-seeded and re-planted with native seed and plants per the specifications of the city of Portland. Removal of the existing tower must meet the conditions set by Metro related to risk management issues. Relocation of the osprey nest is subject to the requirements of ODF&W. The applicant must work with city of Portland staff on a public relations plan to alert and redirect trail users during the construction process.

- 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 and terms of the easement are limited to accommodate the installation of the new tower and the wire overhang. These rights are not transferable or assignable to adjacent properties. A condition of approval will be a modification to the existing easement to protect the trail in the future.

- 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 easement space represents the minimum necessary to accomplish the project while minimizing impact on Metro property.

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

Staff Finding: The easement will 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 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.

- 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: Appraised value is determined to be \$917.

- 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 will 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: No exception requested.

- 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: 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 exists 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 for alignment outside the Metro property is feasible. It should be emphasized that Metro purchased the property, an operating railroad corridor, for trail purposes not as a natural area. The new transmission tower location will be outside the Willamette River greenway buffer.

- 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.