

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 18-4939
THE CHIEF OPERATING OFFICER TO)
GRANT AN EASEMENT TO PORTLAND) Introduced by Chief Operating Officer
GENERAL ELECTRIC COMPANY TO) Martha Bennett in concurrence with
RELOCATE EXISTING FACILITIES FOR) Council President Tom Hughes
PARK DEVELOPMENT)

WHEREAS, pursuant to the 1995 Metro Open Spaces, Parks and Streams Ballot Measure 26-26 (“Bond Measure”), Metro purchased real property, located in the Fanno Creek Greenway Target Area, now known as Woodard Park in the City of Tigard; and

WHEREAS, the Fanno Creek Greenway Target Area was designated as a regional trail and greenway in Metro’s Greenspaces Master Plan and identified as a regional target area in the Bond Measure; and

WHEREAS, the City of Tigard developed, manages, and operates Woodard Park pursuant to an Intergovernmental Agreement authorized by Resolution 99-2816; and

WHEREAS, Fanno Creek and a segment of the developed Fanno Creek Regional Trail traverse the park; and

WHEREAS, the Fanno Creek Regional Trail was planned, constructed and is maintained for the use, enjoyment, and benefit of the general public and is part of Metro’s Regional Trail System Plan; and

WHEREAS, with the goal of improving the regional trail system, improving habitat along Fanno Creek, and improving public safety and accessibility to the regional trail, the City of Tigard is replacing a bridge over Fanno Creek and realigning a short section of the regional trail; and

WHEREAS, Portland General Electric Company (PGE) maintains power poles and electrical transmission lines along the SW Tiedemann Avenue right of way; and

WHEREAS, one power pole and the anchors and support wires associated with the power pole are impacted by the proposed construction improvements; and

WHEREAS, trail realignment and bridge construction require the power pole, and thus the anchors and support wires, to be relocated to a new location as depicted on Exhibit A; and

WHEREAS, the impacted anchors and support wires are on Metro property and were present when Metro purchased the property in 2001; and

WHEREAS, to accommodate the trail realignment and bridge construction, PGE requested an easement to have authorization to relocate the anchors and support wires in a manner similar to and consistent with the current anchors and support wires on Metro property;

WHEREAS, Metro Council concludes that granting the easement is consistent with Metro's easement policy as described in Metro Resolution No. 97-2539B approved on November 6, 1997;

WHEREAS, said easement policy includes exceptions to the policy, including utility facilities associated with projects that are designed specifically for the benefit of a Metro park or recreational facility;

WHEREAS, the Metro Council concludes that granting the easement is a public benefit and necessary to support the regional trail system and park use improvements.

NOW THEREFORE,

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to grant PGE an easement for access, construction, repair, and maintenance of anchors and support wires in the location depicted on Exhibit A, on terms approved by the Office of Metro Attorney.

ADOPTED by the Metro Council this 18th day of October, 2018.



Tom Hughes, Council President

Approved as to Form:



Nathan A. S. Sykes, Acting Metro Attorney

EXHIBIT A TO RESOLUTION 18-4939



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 18-4939, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO GRANT AN EASEMENT TO PORTLAND GENERAL ELECTRIC COMPANY TO RELOCATE EXISTING FACILITIES FOR PARK DEVELOPMENT

Date: October 8, 2018

Prepared by: Gary Shepherd, Office of Metro Attorney

INTRODUCTION

This resolution requests authorization to execute an easement with the Portland General Electric Company (PGE) to permit existing anchors and support wires associated with a power pole to be relocated to accommodate public park and regional trail improvements on Metro property.

BACKGROUND

Metro owns property known as Woodard Park in the City of Tigard. The City of Tigard manages and operates Woodard Park pursuant to an Intergovernmental Agreement.

Fanno Creek and a segment of the Fanno Creek Regional Trail traverse the park. The Fanno Creek Regional Trail was planned, constructed and is maintained for the use, enjoyment, and benefit of the general public and part of Metro's Regional Trail System Plan.

With the goal of improving the regional trail system, improving habitat along Fanno Creek, and improving public safety and accessibility, the City of Tigard is replacing a bridge over Fanno Creek and realigning a short section of the regional trail. Metro Parks and Nature staff have been involved in the planning of the improvements and have reviewed and approved the plans. The City of Tigard is currently constructing the improvements.

The improvements are adjacent to SW Tiedemann Avenue. Portland General Electric Company (PGE) maintains power poles and electrical transmission lines along the SW Tiedemann Avenue right of way. One power pole and the anchors and support wires associated with the power pole are impacted by the proposed construction improvements. The anchors and support wires are on Metro property and were present when Metro purchased the property in 2001.

The trail realignment and bridge construction require the power pole, anchors, and support wires to be relocated to a new location as depicted on Attachment A.

To accommodate the trail realignment and bridge construction, PGE requested an easement authorizing it to relocate the anchors and support wires on Metro property in a manner similar to and consistent with the current anchors and support wires on Metro property.

Metro Council adopted Resolution No. 97-2539B (easement policy) in order to establish a policy for Metro to consider requests to encumber Metro Parks and Nature properties with private easements designed for access, utilities, or other non-park purposes. The easement policy outlines specific criteria against which Metro staff should consider private easement requests.

The easement policy also includes exceptions to the policy. One exception to the policy is for utility facilities associated with projects that are designed specifically for the benefit of a Metro park or recreational facility. Metro Parks and Nature staff, along with the Office of Metro Attorney, conclude that PGE's easement request is consistent with the easement policy exception.

Staff is of the opinion that granting the easement is a public benefit and necessary to support the regional trail system and park use improvements occurring on Metro property. This opinion is supported by the fact that the anchors and guide wires requiring relocation existed prior to Metro's purchase, and would not need relocating, but for the bridge and regional trail improvements. Staff also determined the easement can be accommodated without impacts to natural resources, cultural resources, and recreational facilities or opportunities, and that there is no feasible or practicable alternative alignment. The easement will also act to clarify the rights and responsibilities of Metro and PGE concerning their existing infrastructure on Metro property.

ANALYSIS/INFORMATION

1. **Known Opposition.** None.

2. **Legal Antecedents.**

1995 Metro Open Spaces Bond Measure approved by voters on May 16, 1995.

Metro Code Section 2.04.050, which requires Metro Council authorization for the Chief Operator to transfer interests in real property.

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.

Resolution No. 99-2816 "Authorizing the Chief Operating Officer to Execute an Intergovernmental Agreement with the City of Tigard to Manage the Property in the Fanno Creek Greenway Target Area" adopted July 15, 1999.

3. **Anticipated Effects.** Adopting the resolution authorizing granting the easement will allow PGE to relocate existing facilities on Metro property and allow the City of Tigard to construct trail and bridge improvements associated with the Fanno Creek Regional Trail. This regional trail was planned, constructed and is maintained for the use, enjoyment, and benefit of the general public and part of Metro's Regional Trail System Plan.

4. **Budget Impacts.** None.

RECOMMENDED ACTION

Approval of Resolution _____

ATTACHMENT 1 TO STAFF REPORT
FOR RESOLUTION 18-4939

