

IN CONSIDERATION OF RESOLUTION NO. 19-5006, FOR THE PURPOSE OF  
AUTHORIZING THE CHIEF OPERATING OFFICER TO GRANT AN EASEMENT FOR  
NON-PARK USE TO THE CITY OF TIGARD AT BROWN NATURAL AREA

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Date: November 19, 2019  
Department: Parks and Nature  
Meeting Date: December 5, 2019

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**ISSUE STATEMENT**

The City of Tigard requests the Metro Council authorize the Chief Operating Officer to grant the city a permanent water line easement of approximately 6,000 square feet (approximately 15 feet wide, 400 feet long), and a temporary construction easement for installation activities.

**ACTION REQUESTED**

Metro Council authorization for the Chief Operating Officer to grant the easement to the City of Tigard.

**IDENTIFIED POLICY OUTCOMES**

Continued application of the guidance in the Parks and Nature easement policy (Res. 97-2539B) (the "Easement Policy").

**POLICY QUESTION(S)**

Does the Metro Council wish to permit the City of Tigard to install and maintain a water line connection across a segment of the Metro-owned Brown Natural Area that will connect two dead-end existing water lines? This request has been reviewed by Parks and Nature Department staff using the guidance in the Easement Policy, and the staff findings are documented in Attachment 1 to this Staff Report.

**POLICY OPTIONS FOR COUNCIL TO CONSIDER**

1. Grant the City of Tigard the easement. This will allow the City to install the water line connection, providing improved water quality and ensuring domestic and critical fire service is maintained for nearby properties. This option is consistent with the recommendation by staff using the guidance in the Easement Policy.
2. Do not grant the City of Tigard the easement. The City would have no other alternative but to continue use of the aging and compromised Red Rock Creek water line. This could cause uncertainty with the City of Tigard.

## **STAFF RECOMMENDATIONS**

Staff reviewed the request using the guidance in the Easement Policy and recommends the Metro Council approve the City of Tigard's request, authorizing the Chief Operating Officer to grant the permanent water line easement and temporary construction easement to the City of Tigard.

## **STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION**

The City of Tigard has requested a 15-foot wide, 400-foot long permanent easement (approximately 6,000 square feet in total) for the maintenance and repair of an underground pipeline which will connect two existing dead-end water lines located to the north and south of the Brown Natural Area. In addition, the City has requested a temporary construction easement to allow access to the northern-most section of the existing water line for installation activities.

The proposed water line connection would allow for improved water quality and would ensure domestic and critical fire service is maintained for nearby properties. A large portion of the proposed water line runs underneath and within the boundaries of the proposed Regional Fanno Creek Trail location on the east side of the Brown Natural Area, in order to mitigate the impact as much as possible. In addition, the City will utilize the horizontal directional drilling (HDD) method of installation for the majority (311 feet) of the water line, which helps minimize surface disruptions. The area will receive restoration enhancement activities, and all other disturbed areas in the temporary easement area will be re-seeded.

The proposed use of the easement area will include maintenance and repair of the underground water line, the right to enter the property at reasonable times, the right to excavate and refill ditches for the location of the water line, and the right to remove obstructions interfering with the location, construction, and maintenance of the water line.

The property is currently encumbered by a sewer line easement to the City of Tigard (Resolution No. 08-3958) near the same location as this proposed water line easement area.

### **Legal Antecedents**

- Metro Open Spaces, Parks and Streams 1995 Ballot Measure 26-26
- Metro Resolution No. 97-2539B "For the Purpose of Approving General Policies Related to the Review of Easements, Rights of Ways, and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department"

### **Anticipated Effects**

- The City of Tigard will construct a water line connection through a corner of Metro-owned property. Nine trees will need to be removed, but those nine trees would otherwise be removed for construction of the proposed Regional Fanno Creek Trail. In addition, approximately 1,868 square feet of vegetated corridor will be impacted

by the temporary construction easement. This area will receive restoration enhancement activities, and all other disturbed areas in the temporary easement area will be re-seeded. The City of Tigard will have ongoing access to exercise valves, maintain equipment, and perform needed repairs.

Financial Implications (current year and ongoing)

- None

## **BACKGROUND**

The Metro Code requires Metro Council approval of new easements over Metro property. As an owner of almost 18,000 acres of land across the greater Portland region, Metro's Parks and Nature Department receives frequent requests for easements over Metro property for both park and non-park uses. In 1997, to ensure that the habitat and natural area purposes for which voters funded Metro's property acquisition are not eroded over time by non-park uses, the Metro Council approved Resolution 97-2539B (Easement Policy). The Easement Policy directs staff to make recommendations to the Metro Council on whether an easement request should be granted, and the policy provides the framework for staff to make its recommendations. Staff has determined that the easement request can be accommodated with minimal impact at the Brown Natural Area, and staff therefore recommends approval of the easement request.

## **ATTACHMENTS**

Attachment 1: Metro easement policy criteria and Staff Findings on City of Tigard's application for a water line easement across the Brown Natural Area.