

ORDINANCE NO. 5175

AN ORDINANCE AUTHORIZING THE CITY TO PURCHASE PROPERTY LOCATED IN BENTON COUNTY FOR A PUBLIC PARK AND DECLARING AN EMERGENCY

WHEREAS, Oregon Revised Statutes, §226.370, requires that a city pass an ordinance authorizing the purchase of land for public parks; and

WHEREAS, a tract of land hereinafter described located in Benton County, Oregon, has been designated as future park property under the City of Albany Parks Master Plan; and

WHEREAS, said property is available for sale at a negotiated price which is reasonable.

NOW, THEREFORE, THE PEOPLE OF CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1.: It is hereby determined that Parcel 1 of Partition Plat No. 1993-94, as recorded December 21, 1993, in the Benton County Partition Plat Records, Benton County, Oregon, has been designated on the City of Albany Parks Master Plan as a potential park site.

Section 2.: That the property described in Section 1 is available for purchase and a price of \$200,000 is a reasonable sum to be paid for said property, to be used for park purposes.

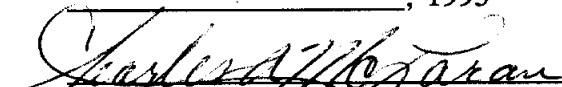
Section 3.: That the city is hereby authorized to pay the sum of \$200,000, plus the assumption of any assessments which might be due for existing sewer lines or connection to sewers, with the purchase price to be paid for out of appropriate funds of the city.

Section 4.: Emergency Clause. Whereas the peace, health and safety of the citizens is effected by this ordinance, an emergency is hereby declared and this ordinance shall become in full force and effect upon passage by the Council and approved by the Mayor.

PASSED BY THE COUNCIL: April 26, 1995

APPROVED BY THE MAYOR: April 26, 1995

EFFECTIVE DATE: April 26, 1995



Mayor

ATTEST:


City Recorder - Deputy

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that PHILLIP L. GERSTNER and DIAN GERSTNER, Trustees for the Phillip L. Gerstner M.D. P.C. Profit Sharing Trust, hereinafter called Grantor, for the consideration hereinafter stated, to Grantor paid by THE CITY OF ALBANY, a municipal corporation, hereinafter called Grantee, does hereby grant, bargain, sell and convey unto the Grantee and Grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, situated in the County of Benton, State of Oregon, described as follows, to-wit:

Parcel 1 of Partition Plat No. 1993-94, a recorded December 21, 1993, in the Benton County Partition Plat Records, Benton County, Oregon

To Have and to Hold the same unto said Grantee and Grantee's heirs, successors and assigns forever.

And Grantor hereby covenants to and with Grantee and Grantee's heirs, successors and assigns, that Grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances, except the matters contained in the usual printed exceptions to a title insurance policy and liens and encumbrances placed on the property or suffered by a purchaser subsequent to: (1) Regulations, including levies, liens, assessments, rights of way and easements of the North Albany County Service District; (2) Easement for electric transmission line, including the terms and provisions thereof, in favor of Mountain States Power Company, as set forth in instrument recorded April 3, 1923, in Book 71, Page 469, Benton County Deed Records; (3) Easement for public utilities, including the terms and provisions thereof, in favor of the City of Albany, as set forth in instrument recorded November 23, 1992, as M-156671-92, Microfilm Records for Benton County, Oregon; and (4) Land Partitioning Agreement, including the terms and provisions thereof, as set forth in instrument recorded January 10, 1994, as M-176068-94, Microfilm Records for Benton County, Oregon, and that Grantor will warrant and forever defend the premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances, if any.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$200,000. However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration.

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the Grantor has executed this instrument this _____ day of April, 1995.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. 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 EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

Phillip L. Gerstner - Trustee

Dian Gerstner - Trustee

STATE OF OREGON, County of _____) ss.

This instrument was acknowledged before me on April _____, 1995, by Phillip L. Gerstner and Dian Gerstner as Trustees for the Phillip L. Gerstner M.D. P.C. Profit Sharing Trust.

NOTARY PUBLIC FOR OREGON
My Commission Expires:

FOR RECORDER'S USE

Phillip L. & Dian Gerstner - Grantor, as Trustees for the Phillip L. Gerstner M.D. P.C. Profit Sharing Trust
City of Albany - Grantee
After recording return to: Finance Director, City of Albany, P.O. Box 490, Albany, OR 97321
Until requested otherwise send all tax statements to: Finance Director, City of Albany, P.O. Box 490, Albany, OR 97321