

ORDINANCE NO. 807

AN ORDINANCE AUTHORIZING PURCHASE OF REAL PROPERTY FOR
FUTURE PARK EXPANSION; AND DECLARING AND EMERGENCY

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Purchase Authorized. The City of Canby is authorized to purchase from Myrtle Marshall, the following described real property for a future park expansion:

The North 90 feet of the West 330 feet of Lot 55, Canby Gardens commonly known as 1304 N. Maple Street, Canby, Oregon

Section 2. Purchase Price. The total purchase price to be the sum of THIRTY THREE THOUSAND NINE HUNDRED DOLLARS (\$33,900.00) of which six thousand dollars (\$6,000.00) has been paid as a down payment and will apply to the purchase price. The balance of the purchase price of twenty seven thousand nine hundred (\$27,900.00) dollars is to be paid as per the terms of a land sale contract. A copy of the land sale contract entered into between the parties is attached to this ordinance and marked "Exhibit A", thereto. By this reference, said land sale contract is incorporated within as if fully set forth herein. The City of Canby is authorized to complete this transaction according to terms of the land sale contract.

Section 3. Budgeted Funds to Pay Purchase Price. The down payment of six thousand (\$6,000.00) dollars plus the balance of twenty seven thousand nine hundred (\$27,900.00) dollars is to be paid from the City's current fiscal budget, line item number 1981930 titled "Park Purchase" from the City's General Fund.

Section 4. City Attorney to Approve Title Report and Deed. The City Attorney shall first approve the preliminary title report and form of deed for the City's purchase of said property.

Section 5. Mayor and City Administrator to Execute Contract. The Mayor and City Administrator are authorized and directed to execute and deliver in the name of and on behalf of the City of Canby as purchaser, the required land sale contract and any other documents as may be required for closing the transaction.

Section 6. Emergency Declared. Inasmuch as it is necessary to proceed with the plans for expansion of the City Park for the use and benefit of the City and since the seller of said property intends to sell this property immediately, and for the general welfare of the residents, an emergency is hereby declared to exist and this ordinance shall take effect immediately after final reading and enactment by the Canby City Council.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on July 15, 1987; ordered posted as required by the Canby City Charter and scheduled for second reading and action of the Canby City Council at a regular meeting thereof on, Wednesday, August 5, 1987, commencing at the hour of 7:30 o'clock P.M., at the council Meeting Chambers at the Canby City Hall in Canby, Oregon.


Marilyn K. Perkett City Recorder

Passed on final reading of the Canby City Council at a regular meeting thereof held on the 5th day of August, 1987, by the following vote:
YEAS 5 NAYS 0


William F. Pulver, Mayor

ATTEST:


Marilyn K. Perkett, City Recorder

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TRACT - REAL ESTATE



THIS CONTRACT, Made this 23rd day of February, 1987, between Myrtle Marshall

A. hereinafter called the seller, and CITY OF CANBY, a Municipal Corporation

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Clackamas County, State of Oregon, to-wit:

The North 90 feet of the West 330 feet of Lot 55, Canby Gardens commonly known as 1304 N. Maple Street, Canby, Oregon

for the sum of Thirty Three Thousand, Nine Hundred Dollars (\$ 33,900.00) (hereinafter called the purchase price) on account of which Six Thousand Dollars (\$ 6,000.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller); the buyer agrees to pay the remainder of said purchase price (to-wit: \$ 27,900.00) to the order of the seller in monthly payments of not less than One Thousand Dollars (\$ 1,000.00) each,

payable on the 1st day of each month hereafter beginning with the month of July, 1987, and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 9% per cent per annum from July 1, 1987 until paid, interest to be paid and * being included in the minimum monthly payments above required. Taxes on said premises for the current tax year shall be prorated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is not a liability for business or commercial purposes.

The buyer shall be entitled to possession of said lands on closing 1987 and may retain such possession so long as the buyer is not in default under the terms of this contract.

The seller agrees that in the event of a default by the buyer, the seller shall have the right to sell the premises at public or private sale. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of the agreement, seller will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, buyer's heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements, restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or buyer's assigns.

(Continued on reverse)

* IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures for this purpose, use Stevens-Neer Form No. 1319 or similar.

SAFECO TITLE INSURANCE CO. 62-50360

Form fields for Seller and Buyer information: Myrtle A. Marshall, 1304 N. Maple, Canby, Oregon 97013; City of Canby, a Municipal Corporation, 182 N. Holly, Canby, Oregon 97013.

Form fields for State and County: STATE OF OREGON, County of ... I certify that the within instrument was received for record on the ... day of ... 19... at ... o'clock ... M., and recorded in book/reel/volume No... on page ... or as fee/tile/instrument/microfilm/reception No... Record of Deeds of said county. Witness my hand and seal of County attixed. By Deputy

87-08094

And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within 20 days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at seller's option shall have the following rights: (1) to declare this contract null and void, (2) to declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable and/or (3) to foreclose this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and revest in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for moneys paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default all payments theretofore made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect seller's right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 33,900.00

In case suit or action is instituted to foreclose this contract or to enforce any provision hereof, the losing party in said suit or action agree to pay such sum as the trial court may adjudge reasonable as attorney's fee to be allowed the prevailing party in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

In construing this contract, it is understood that the seller or the buyer may be more than one person or a corporation; that if the context so requires, the singular pronoun shall be taken to mean and include the plural and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto but their respective heirs, executors, administrators, personal representatives, successors in interest and assigns as well.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

by: William Pulver

by: Stephan Lashbrook
City Administrator

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.

Mary Ann Rudd
by Mary Ann Rudd
See attorney in fact

NOTE—The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.030.

If executed by a corporation, affix corporate seal.
If the signer of the above is a corporation, use the form of acknowledgment opposite.)

STATE OF OREGON,
County of Clackamas } ss.

STATE OF OREGON,
County of Clackamas } ss.

This instrument was acknowledged before me on February 23, 19 87, by William Pulver and Stephan Lashbrook, as Mayor and City Administrator respectively of the City of Canby, a Municipal Corporation.

This instrument was acknowledged before me on February 23, 19 87, by William Pulver & Stephan Lashbrook as Mayor and City Administrator respectively, of the City of Canby, a Municipal Corporation.

Eleanor DeBorja
Notary Public for Oregon

Virginia S. Shirley
Notary Public for Oregon

(SEAL) My commission expires: 11-30-87

(SEAL) My commission expires: 6-5-87

ORS 93.635 (1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the conveyer of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyer not later than 15 days after the instrument is executed and the parties are bound thereby.
ORS 93.990(8) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)

FORM No. 159—ACKNOWLEDGMENT BY ATTORNEY-IN-FACT.

STATE OF OREGON,
County of Clackamas } ss.

On this the 20th day of February, 19 87 personally appeared MARY ANN RUDD who, being duly sworn (or affirmed), did say that she is the attorney in fact for MYRTLE A. MARSHALL and that she executed the foregoing instrument by authority of and in behalf of said principal; and she acknowledged said instrument to be the act and deed of said principal.

Before me:
Eleanor DeBorja
(Signature)

My commission expires: 11-30-87
(Title of Officer)

(Official Seal)