

RESOLUTION NO.2048

A RESOLUTION ACCEPTING THE DONATION OF, AND THE DEED FOR, TRACT "A" OF BELLINGHAM PARK SUBDIVISION

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Bellingham Park subdivision was platted in 1997 and includes a 2.78 acre tract of heavily wooded land that was dedicated as an open space tract because of steep slopes and flood plain that render it undevelopable.
2. This tract of land, identified as Tract "A" on the plat, has been owned by a non-profit corporation that now wishes to donate the property to the City.
3. Tract "A" lies within Beaver Creek greenway and is adjacent to city-owned open space property that includes a segment of the Beaver Creek greenway trail system.
4. The property is a desirable addition to the greenway as public open space.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The City accepts the donation of Tract "A" of Bellingham Park subdivision from the Well Being Foundation for use as public open space and accepts the Statutory Warranty Deed for said property.

Section 2. This resolution shall take effect immediately upon adoption.

YEAS: 6

NAYS: 0


ABSTAINED: 0



Jim Kight, Mayor



Date



Debbie Stickney, City Recorder
Adopted: May 25, 2010

After recording please return to:

City Recorder
City of Troutdale
104 SE Kibling Avenue
Troutdale OR 97060

Multnomah County Official Records
C Swick, Deputy Clerk

2010-069791



\$56.00

Until a change is requested,
send tax statements to the
following address:

1R-W DEED
\$25.00 \$11.00 \$15.00 \$5.00

06/04/2010 02:50:03 PM
Cnt=1 Stn=11 RECCASH2

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City of Troutdale
104 SE Kibling Avenue
Troutdale OR 97060

STATUTORY WARRANTY DEED

Well Being Foundation, fka Cascade Ecological Foundation, an Oregon nonprofit corporation, Grantor, conveys and warrants to the City of Troutdale, an Oregon municipal corporation, Grantee, the following-described real property, free of encumbrances except as specifically set forth herein:

Tract "A", BELLINGHAM PARK, in the City of Troutdale, Multnomah County, Oregon.

The above-described property is free of encumbrances except those encumbrances set forth on the attached Exhibit A, which is incorporated herein by this reference (the "Property").

Grantor additionally represents, warrants and covenants as follows:

- A. Grantor provided to Grantee a copy of the Phase I Environmental Site Assessment prepared by Hahn & Associates dated May 7, 1996 ("Phase I Assessment"). To Grantor's actual knowledge, the Phase I Assessment is the only written report in Grantor's possession relating to the release of any hazardous substances on or from the Property.
- B. To Grantor's actual knowledge, there has been no release of hazardous substances onto or from the Property. "Release" and "hazard substance" shall have the meaning set forth under ORS §465.200(22) and §465.200(16) respectively.
- C. To Grantor's actual knowledge, there are no underground storage tanks as defined under 42 USC §6991(10) presently on or in the Property.
- D. Grantor covenants that it does not intend to cause the assumption of any liability by Grantee from the release of hazardous substances onto or from the Property because of any express provision in this deed.
- E. Each of the representations and warranties of Grantor contained in this deed shall survive for a period of twelve (12) months from the date of conveyance.

The true consideration for this conveyance is other property or value given. \$264,410
Page 1 - STATUTORY WARRANTY DEED
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- F. Grantor agrees to defend, indemnify and hold harmless Grantee, its officers, agents and employees against all liabilities, damages, loss, claims, demands, actions and suits (including attorney's fees and costs) resulting from the breach of any representation, warranty or covenant expressly set forth in Paragraphs A through E above; provided, however, that Grantor's indemnity obligation as set forth in this Paragraph F shall expire as provided below. Notwithstanding any provisions to the contrary, any indemnity claim that Grantee may have at any time against Grantor for breach of any such representation, warranty or covenant as provided above, whether known or unknown, which is not asserted by written notice within the 12-month period following the conveyance shall not be valid or effective, and Grantor shall have no liability with respect thereto.
- G. For purposes of this deed, whenever the phrase "actual knowledge" is used, it shall be deemed to refer to facts within the actual knowledge of the President of the Grantor, Donald W. Oakley, P.E., upon reasonable investigation of the files in his possession and not to any constructive knowledge of the foregoing individual or of Grantor or to any officer, member, director, agent, representative or employee of Grantor.
- H. Except for express representations and warranties provided above and the covenants described in ORS §93.850(2)(c), Grantor is donating such property and by acceptance of the deed, Grantee is receiving such donation on an "AS IS" basis.
- I. Other terms and conditions of this donation and conveyance are memorialized by that certain letter from Grantor to the Mayor of Troutdale dated May 11, 2010 which by this reference is incorporated herein.

The true consideration for this conveyance is other property or value given.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

[Signature line and notary block appear on the following page.]

This Warranty Deed is executed this 17th day of May, 2010.

WELL BEING FOUNDATION

By: Donald W. Oakley
Donald W. Oakley, P.E., President

GRANTOR

STATE OF Tennessee)
) ss.
County of Claiborne)

This instrument was acknowledged before me on May 11, 2010 by Donald W. Oakley, President of Well Being Foundation.

Kathleen Mannin
Notary Public - State of Tennessee

My Commission Expires:
March 1, 2014



Accepted by the City of Troutdale, via Resolution No. 2048, on the 25th day of May, 2010.

Debbie Stickney
Debbie Stickney, City Recorder

EXHIBIT A

Property Encumbrances

1. City liens, if any, in favor of the City of Troutdale.
2. Any adverse claim based upon the assertion that:
 - (a) The property conveyed hereunder, or any part thereof, is now or at any time has been below the highest of the high watermarks of Beaver Creek in the event the boundary of said creek has been artificially raised or is now or at any time has been below the high watermark, if said creek is in its natural state.
 - (b) Some portion of the property conveyed hereunder has been created by artificial means or has accreted to such portion so created.
 - (c) Some portion of the property conveyed hereunder has been brought within the boundaries thereof by an avulsive movement of Beaver Creek, or has been formed by accretion to any such portion.
3. Rights and easements for navigation and fishery which may exist over that portion of the property conveyed hereunder lying beneath the waters of Beaver Creek.
4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Troutdale
Purpose: Temporary utility and access
Recording Date: March 22, 1991
Recording No.: Book 2396, Page 316
5. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Troutdale
Purpose: Utility and access
Recording Date: March 22, 1991
Recording No.: Book 2396, Page 321
6. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat:

Name of Plat: Bellingham Park
Recording Date: September 30, 1997
Recording No.: 97-150021

EXHIBIT A

Property Encumbrances, continued

7. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat:

Purpose: Slope, drainage and public utility to Multnomah County

8. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Troutdale
Purpose: Public access for trail
Recording Date: August 7, 2000
Recording No.: 2000-107978

VICINITY MAP OF TRACT A BELLINGHAM PARK SUBDIVISION

