

RESOLUTION NO. 1489

A RESOLUTION AUTHORIZING THE CITY OF WILSONVILLE TO EXERCISE ITS OPTION TO PURCHASE PROPERTY FOR WATER WORKS AND WATER SYSTEM PURPOSES AND TO PRESERVE WILLAMETTE RIVER WATER RIGHTS.

WHEREAS, ORS 225.020 authorizes cities to acquire real property within its boundaries for the purposes of building, owning, operating and maintaining waterworks and water systems for the benefit and use of its inhabitants including, but not limited to, the using, selling, and disposing of its water for domestic, recreational, industrial, and public use and for irrigation; and

WHEREAS, ORS 225.050 also provides broad authority for cities to acquire, own, operate and finance waterworks, water pipe lines, water rights and water and to accomplish such purpose, purchase, own, hold, appropriate and condemn land; and

WHEREAS, the City has a 20 million gallon a day surface water right on the Willamette River, the location of which is adjacent to the real property described in Exhibit A attached hereto and incorporated herein; and

WHEREAS, acquisition of the real property described in Exhibit "A" meets the public purposes authorized by ORS 225.020 and ORS 225.050 and will aid the City's reasonable diligence in maintaining, preserving and using the aforementioned surface water right; and

WHEREAS, the City may need to provide proof of reasonable diligence to the Department of Water Resources as early as October 1998; and

WHEREAS, the City entered into an Option Agreement on December 12, 1997, which granted the City the sole, exclusive and irrevocable option to purchase approximately 31.5 acres of real property fronting the Willamette River described in Exhibit "A"; and

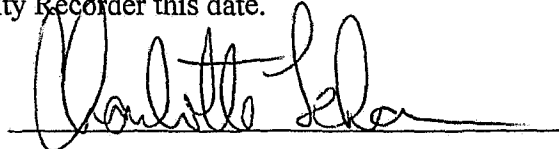
WHEREAS, the City may exercise the option at any time between July 1, 1998 and July 15, 1998.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. Based upon the above recitals, the City Council determines it is in the public's best interest, benefit and use to exercise the above-recited option.

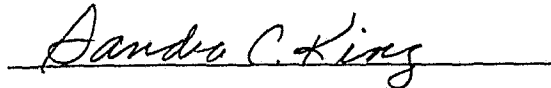
2. The City Manager is authorized to exercise the City's option in the December 12, 1997, Option Agreement, to purchase the properties described in Exhibit "A", attached hereto and incorporated herein, and to take whatever action may be necessary to accomplish that purpose.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 6th day of July, 1998, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, Mayor

ATTEST:



SANDRA C. KING, CMC, City Recorder

SUMMARY of Votes:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Helser	Yes
Councilor Barton	Yes
Councilor Luper	Yes

EXHIBIT A

PROPERTY

LEGAL DESCRIPTION

PARCEL 1

Being a part of the R. V. Short Donation Land Claim in Township 3 South, Range 1 West, Willamette Meridian, in the County of Clackamas and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point on the line between Sections 22 and 23, said township and range, 792.23 feet South 0°03' East of the Northwest corner of said Section 23; running thence south 0°03' East on said section line 604.99 feet to the Southwest corner of M.A. Holbrook tract as recorded in Book 159, Page 546, Records of Deed for Clackamas County, Oregon; thence North 89°50' East 1239.0 feet along the South boundary of the said Holbrook Tract to the East line of the above mentioned Short DLC; thence North 0°17' West along the East boundary of the said short DLC 545.7 feet to a point; thence North 87°25' West 1237.9 feet to the place of beginning.

EXCEPT the West 20 feet thereof conveyed for private roadway.

AND FURTHER EXCEPTING THEREFROM that portion included in Quit Claim Deed to Joe Bernert Towing Co., Inc. recorded December 29, 1987 as Recorder's Fee No. 87057703.

Tax Account No. 818850 Map No. R31W23B Tax Lot No. 01800

Parcel 1 Permitted Encumbrances:

1. Current taxes and assessments of record, not yet due and payable, affecting the Property.
2. An easement created by instrument, including terms and provisions thereof;

Dated:	May 22, 1957
Recorded:	June 2, 1957
Book:	527
Page:	272
In favor of:	United States of America
For:	Transmission line

PARCEL 2

A tract of land in a portion of the Robert V. Short DLC No. 46 located in the Northwest and Southwest one-quarters of Section 23, township 3 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a point on the North line of said Section 23, that bears East a distance of 20.00 feet from the Northwest corner of said Section 23; thence South $0^{\circ}03'00''$ East, parallel with and 20 feet Easterly of the West line of said Section 23, a distance of 1392.22 feet to an interior angle corner in the Northerly line of that tract of land conveyed to Hardy S. Young by Deed, described in and recorded under Fee Number 74-10618 Clackamas County Deed Records; thence North $89^{\circ}51'$ East, along said Young's North line, a distance of 580.00 feet to a 5/8 inch iron rod at the Northwest corner of that tract of land conveyed as a Tract I to Joe Bernert Towing Company, Inc., in a contract recorded under Fee Number 75-9882, Deed Records; thence South $0^{\circ}03'$ East, along the Westerly line of said Towing Company Tract, a distance of 220.00 feet to a 5/8 inch iron rod at the Northeast corner of that tract of land conveyed to Joe Bernert Towing Company, Inc., by a contract described in and recorded under Fee Number 90-2243, Deed Records; thence South $89^{\circ}51'$ West, along the Northerly line of last said tract, a distance of 60.00 feet to a 5/8 inch iron rod; thence South $77^{\circ}08'26''$ West, along last said Towing Company Tract, a distance of 492.25 feet to a 5/8 inch iron rod; thence South $0^{\circ}03'$ East, along the Westerly line of last said tract, a distance of 141.69 feet to a 5/8 inch iron rod; thence South $49^{\circ}54'37''$ East, along a Westerly line of last said tract, a distance of 659.97 feet to a 5/8 inch iron rod at an angle corner in said Westerly line; thence South $9^{\circ}47'13''$ East, along said Westerly line, a distance of 747.37 feet to a 5/8 inch iron rod, being the South corner of said Fee Number 90-2243, said South corner being on the West line of said Tract I of Fee Number 75-9882; thence South $0^{\circ}03'$ East, along the West line of said Tract I, a distance of 225.18 feet, more or less, to the South line of said Fee Number 74-10618; thence South $83^{\circ}31'40''$ West, along the South line of said Fee Number 74-10618, a distance of 517.54 feet, more or less, to the mouth of a ravine; thence South $77^{\circ}46'41''$ West, continuing along the South line of Fee Number 74-10618, a distance of 79.72 feet to the Southwest corner thereof; thence North, along the Westerly line of said Fee Number 74-10618, a distance of 966.90 feet to a point; thence North $58^{\circ}00'$ West, a distance of 117.48 feet to a point on the West line of said Section 23; thence North $0^{\circ}03'$ West, along said West section line, a distance of 2299.44 feet to the Northwest corner of said Section 23; thence East a distance of 20.00 feet returning to the point of beginning.

Tax Account No. 818878 Map No. R31W23B Tax Lot No. 01900

PARCEL 2 PERMITTED ENCUMBRANCES:

1. Current taxes and assessments of record, not yet due and payable, affecting the Property.
2. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of the Willamette River.

Exhibit A

Page 2 of 3

3. Any adverse claims based upon the assertion that the Willamette River has changed in location.
4. Covenants, conditions and restrictions, but omitting restrictions if any, based on race, color, religion, sex, handicap, familial status or national origin, unless and only to the extent that said covenant, (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, imposed by instrument, including the terms and provisions thereof,
Recorded: January 6, 1899
Book: 66
Page: 470
5. Roadway and Maintenance Agreement, including the terms and provisions thereof,
Dated: November 17, 1954
Recorded: January 7, 1955
Book: 490
Page: 378
6. An easement created by instrument, including the terms and provisions thereof,
Dated: July 5, 1957
Recorded: July 25, 1957
Book: 528
Page: 448
In Favor of: United States of America
For: Transmission line
Affects: The Northerly portion
7. An easement created by instrument, including the terms and provisions thereof,
Dated: May 1, 1974
Recorded: April 23, 1975
Recorder's Fee No.: 75-9882
In Favor of: Adjacent property owners
For: Road and utility purposes
Affects: The Northerly portion