

ORDINANCE NO. 1362

An ordinance authorizing and directing the Mayor and Recorder of the City of Albany to settle a certain claim in favor of the City of Albany against the Mountain States Power Company, a Delaware Corporation, and declaring an emergency.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

WHEREAS, heretofore, to-wit, on the 18th day of January, 1930, there was then and now is passing through the City of Albany, Oregon, a ditch or canal known as the Albany-Lebanon canal, which is owned, operated and maintained by Mountain States Power Company, a Delaware Corporation, and which said ditch or canal traverses various streets, alleys and public ways in the City of Albany, Linn County, Oregon; and

WHEREAS, heretofore, to-wit, on the 18th day of January, 1930, there was then existing a certain sewer crossing said canal at the intersection of said canal and West Twelfth Street, in the City of Albany, Linn County, Oregon, and

WHEREAS, on the aforesaid date said sewer was damaged, and the City of Albany claims that said damage was occasioned by the negligent acts of employees and agents of Mountain States Power Company, a Delaware corporation, and said Mountain States Power Company has offered the City of Albany, Linn County, Oregon, the sum of \$450.00 as a compromise and in full settlement of all of said alleged claims; and

WHEREAS, it is the judgment of the common council of the City of Albany, Linn County, Oregon, that said offer of said Mountain States Power Company is reasonable and should be accepted.

Section 1. That the offer of the Mountain States Power Company in the sum of \$450.00 in full settlement of all claims of the City of Albany arising out of damages to its sewer crossing the Albany-Lebanon canal at the intersection of said canal with West Twelfth Street in the City of Albany, Oregon, be accepted.

Section 2. That the Mayor and Recorder of the City of Albany, Linn County, Oregon, be and they are hereby authorized and directed to accept said sum of money from said Mountain States Power Company, a Delaware corporation, for the purposes aforesaid, and they are hereby authorized and directed to execute unto said Mountain States Power Company, a Delaware Corporation, a release for and behalf of the City of Albany, in words and figures substantially as follows, to-wit:

KNOW ALL MEN BY THESE PRESENTS, that the City of Albany, a municipal corporation of the State of Oregon, for and in consideration of the sum of Four Hundred Fifty and no/100 dollars (\$450.00), to it in hand paid, receipt whereof is hereby admitted, does hereby, for itself, its successors and assigns, fully release, remise and forever discharge Mountain States Power Company, a Delaware corporation, of and for any and all liability, claim of damage, or damage of any kind, character or nature, either for personal injuries or property damages that have arisen prior to the date hereof, or may or might arise in the future on account of damages sustained by said city to its sewer at the intersection of West Twelfth Street and the Albany-Lebanon canal, in the City of Albany, Oregon, due to a break in said sewer in said canal at said point the 18th day of January, 1930; and

THATWHEREFORE, the City of Albany for itself, and its successors, does hereby acknowledge full and complete satisfaction on account of any claim whatsoever that has arisen or may or might in the future arise on account of the aforesaid damages to the aforesaid sewer and any and all other injuries of whatsoever kind, character or nature, or any other claim or damages that it may have by reason of the aforesaid damages to said sewer. The City of Albany fully understands and agrees that the consideration herein stated is the sole consideration for this release and is full and complete settlement of all claims and causes of action arising out of or by reason of the above described damages.

IN WITNESS WHEREOF the City of Albany has caused these presents to be executed in duplicate by its Mayor and attested by its City Recorder and its corporate seal hereunto affixed on this the 13th day of April, 1932.

Attest:

CITY OF ALBANY, By

City Recorder

Its Mayor.

Section 3. That it is necessary for the preservation of the public peace, health and safety of the City of Albany that this ordinance be in full force and effect from and after the date of its passage.

THATWHEREFORE, an emergency be and the same is hereby declared to exist.

Passed by the Council April 13, 1932

Approved by the Mayor April 13, 1932.

VIRGIL L. CALAVAN, Mayor.

STATE OF OREGON,

County of Linn, ss. I, F.P. Nutting, Recorder of the City of Albany, Linn Co., Oregon, do hereby certify that the foregoing ordinance has been by me carefully compared with the original ordinance bill No. 1461, on file in my office, and that it is a true and correct copy of all of said ordinance bill No. 1461, passed by the Council April 13, 1932, and approved by the Mayor April 13, 1932.

WITNESS my hand and official signature and the seal of the City of Albany, this 20th day of April, 1932.

City Recorder