

RESOLUTION NO. 6453

A RESOLUTION ACCEPTING THE CONVEYANCE OF CITY-OWNED REAL PROPERTY TO FRANK W MOORE, JR., ELIZABETH M. RAPP, AND WENDY G. JONES, TRUSTEES OF THE FRANK AND WINIFRED MOORE REVOCABLE LIVING TRUST.

WHEREAS, the City of Albany identified the need to replace its downtown fire station at the current site; and

WHEREAS, the acquisition of additional properties surrounding the downtown fire station were required for the construction of the new fire facility; and

WHEREAS, on May 28, 2015, the City purchased property at 623, 655 Lyon Street SE and 177 7th Avenue SE; and

WHEREAS, the adjacent property owner at 632 Baker Street SE, Albany, has a recorded eight-foot license agreement for encroachment on property at 177 7th Avenue SE, and also described as Parcel 2 of Partition Plat 2015-20, Attachment B; and

WHEREAS, the City's intent is to transfer the eight-foot strip of land by Quitclaim Deed to Frank W. Moore, Jr., Elizabeth M. Rapp, and Wendy G. Jones, the Trustees of the Frank and Winifred Moore Revocable Living Trust; and

WHEREAS, the City will reserve a perpetual easement over that portion of property described on Exhibit B of the attached Quitclaim Deed and referenced as the "Easement Parcel" to serve as a vegetated buffer setback area and meet the buffering requirements of Albany Development Code, ADC 9.240.

NOW, THEREFORE, BE IT RESOLVED by the City of Albany Council to hereby accept the conveyance of city-owned property to the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996 and the Quitclaim Deed, Attachments A and B.

BE IT FURTHER RESOLVED by the Albany City Council that it does hereby accept this easement.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon passage by the Council and approval by the Mayor.

DATED AND EFFECTIVE THIS 14TH DAY OF OCTOBER 2015.


Mayor

ATTEST:


City Clerk

LINN COUNTY
Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON
D-QD
Cnt=1 Str=44 COUNTER 10/16/2015 03:19:35 PM
\$30.00 \$11.00 \$20.00 \$19.00 \$10.00 \$90.00

2015-16878



00257295201500168780060068

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Steve Druckenmiller - County Clerk



After Recording Return To:

City of Albany City Clerk

PO Box 490

Albany, OR 97321

All Tax Statements Should Be Sent To:

City of Albany

PO Box 490

Albany OR 97321

1. Name/Title of Transaction - by ORS 205.234 (a)

Quitclaim Deed

2. Grantor/Direct Party - required by ORS 205.125(1)(b) and ORS 205.160

City of Albany

PO Box 490

Albany OR 97321

3. Grantee/Indirect Party - required by ORS 205.125(1)(a) and ORS 205.160

Frank W. Moore, Jr., Elizabeth M. Rapp, and Wendy G. Jones, Trustees of the Frank and Winifred Moore Revocable Living Trust.

4. True and Actual Consideration (if there is one), ORS 93.030

\$1.00

Rec No. 16153

<p>City of Albany P.O. Box 490 Albany, OR 97321 Grantor</p> <p><i>Frank W. Moore, Jr., Elizabeth M. Rapp, and Wendy G. Jones, Trustees of the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996</i> Grantee</p> <p><u>After Recording Return to:</u> Steven M. Berne Harris Berne Christensen LLP 5000 SW Meadows Road, Suite 400 Lake Oswego, OR 97035</p> <p><u>Until requested otherwise send all tax statements to:</u></p>	<p><u>For Recorder's Use:</u></p>
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QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that *City of Albany*, hereinafter called *Grantor*, for the consideration hereinafter stated, does hereby remise, release and quitclaim unto *Frank W. Moore, Jr., Elizabeth M. Rapp, and Wendy G. Jones, Trustees of the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996* hereinafter called *Grantee*, and unto Grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Linn, State of Oregon, hereinafter called "Property", being more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

Reservation of Easement Grantor hereby reserves, for itself, its successors, heirs and assigns a perpetual easement over that certain portion of the Property more particularly described on Exhibit "B" attached hereto and incorporated by this reference herein ("Easement Parcel"), to serve as a vegetated buffer setback area. The Easement Property shall contain at least one tree, five shrubs and ground cover, consistent with the buffering requirements of the 2015 City of Albany Development Code (ADC) 9.240. The Easement Property may also be occupied by utilities, screening, sidewalks, bikeways, landscaping and/or vegetated post-construction stormwater quality facilities as long as the minimum vegetated buffer is retained. Buildings, access ways or parking areas are prohibited in the Easement Property except where an access way has been approved by the Grantor, per ADC 9.230. Maintenance of the Easement Property is the responsibility of the Grantor which shall be maintained in the Grantor sole discretion. The Grantor shall have access to the Easement Property for landscaping and maintenance purposes at all times.

The easement reserved herein shall be enforceable as a restrictive covenant upon the land affected hereby, shall run with the land affected hereby, and shall be binding upon and inure to the benefit of such land, each person having or acquiring any right, title or interest therein or any part thereof or any improvements thereon, and upon their respective successors, heirs and assigns owning all or a portion of such land.

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

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$1 and other valuable consideration which includes the settlement of a property title dispute.

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.

Grantee hereby agrees to all of the above stated terms and will cooperate fully to insure the that all terms stated above can be accomplished by Grantor.

IN WITNESS WHEREOF, the Grantor has executed this instrument this 16 day of September, 2015.

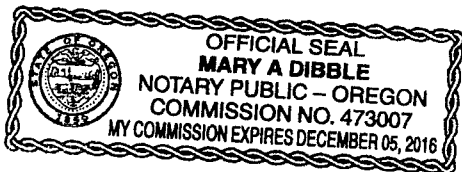
October MD

<p>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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.</p>	<p><u><i>Wes Hare</i></u> City of Albany - Grantor</p> <hr/> <hr/> <hr/> <p>Trustees of the Trustees of the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996 - Grantee</p>
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STATE OF OREGON, County of Linn) ss.

This instrument was acknowledged before me on the 16 day of October MD September, 2015, by

Wes Hare



Mary A. Dibble
NOTARY PUBLIC FOR OREGON

EXHIBIT A

The eastern 8 feet, of the southern 60.78 feet, of Parcel 2 of Linn County, Oregon, Partition Plat 2015-20

EXHIBIT B
EASEMENT PROPERTY

The northern 40 feet, of the eastern 8 feet, of the southern 60.78 feet, of Parcel 2 of Linn County, Oregon, Partition Plat 2015-20

RESOLUTION NO. 6453

A RESOLUTION ACCEPTING THE CONVEYANCE OF CITY-OWNED REAL PROPERTY TO FRANK W MOORE, JR., ELIZABETH M. RAPP, AND WENDY G. JONES, TRUSTEES OF THE FRANK AND WINIFRED MOORE REVOCABLE LIVING TRUST.

WHEREAS, the City of Albany identified the need to replace its downtown fire station at the current site; and

WHEREAS, the acquisition of additional properties surrounding the downtown fire station were required for the construction of the new fire facility; and

WHEREAS, on May 28, 2015, the City purchased property at 623, 655 Lyon Street SE and 177 7th Avenue SE; and

WHEREAS, the adjacent property owner at 632 Baker Street SE, Albany, has a recorded eight-foot license agreement for encroachment on property at 177 7th Avenue SE, and also described as Parcel 2 of Partition Plat 2015-20, Attachment B; and

WHEREAS, the City's intent is to transfer the eight-foot strip of land by Quitclaim Deed to Frank W. Moore, Jr., Elizabeth M. Rapp, and Wendy G. Jones, the Trustees of the Frank and Winifred Moore Revocable Living Trust; and

WHEREAS, the City will reserve a perpetual easement over that portion of property described on Exhibit B of the attached Quitclaim Deed and referenced as the "Easement Parcel" to serve as a vegetated buffer setback area and meet the buffering requirements of Albany Development Code, ADC 9.240.

NOW, THEREFORE, BE IT RESOLVED by the City of Albany Council to hereby accept the conveyance of city-owned property to the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996 and the Quitclaim Deed, Attachments A and B.

BE IT FURTHER RESOLVED by the Albany City Council that it does hereby accept this easement.



BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon passage by the Council and approval by the Mayor.

DATED AND EFFECTIVE THIS 14TH DAY OF OCTOBER 2015.


Mayor

ATTEST:


City Clerk

<p>City of Albany P.O. Box 490 Albany, OR 97321 Grantor</p> <p><i>Return To:</i></p> <p>Frank W. Moore, Jr., Elizabeth M. Rapp, and Wendy G. Jones, Trustees of the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996 Grantee</p> <p><u>After Recording Return to:</u> M. Sean Kidd Delapoer, Kidd P.C. 201 W First Avenue, Ste B Albany, OR 97321</p> <p><u>Until requested otherwise send all tax statements to:</u></p>	<p>For Recorder's Use:</p> <p>LINN COUNTY, OREGON 2015-17534 E-EAS Crt=1 Stn=44 COUNTER 10/28/2015 11:31:31 AM \$25.00 \$11.00 \$20.00 \$19.00 \$10.00 \$85.00</p>  <p>00258023201500175340050056</p> <p>I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.</p> <p>Steve Druckenmiller - County Clerk</p> 
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~~QUITCLAIM DEED~~ *Easement md*

KNOW ALL MEN BY THESE PRESENTS, that *City of Albany*, hereinafter called *Grantor*, for the consideration hereinafter stated, does hereby remise, release and quitclaim unto **Frank W. Moore, Jr., Elizabeth M. Rapp, and Wendy G. Jones, Trustees of the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996** hereinafter called *Grantee*, and unto Grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Linn, State of Oregon, hereinafter called "Property", being more particularly described on **Exhibit "A"** attached hereto and by this reference made a part hereof.

Reservation of Easement Grantor hereby reserves, for itself, its successors, heirs and assigns a perpetual easement over that certain portion of the Property more particularly described on Exhibit "B" attached hereto and incorporated by this reference herein ("Easement Parcel"), to serve as a vegetated buffer setback area. The Easement Property shall contain at least one tree, five shrubs and ground cover, consistent with the buffering requirements of the 2015 City of Albany Development Code (ADC) 9.240. The Easement Property may also be occupied by utilities, screening, sidewalks, bikeways, landscaping and/or vegetated post-construction stormwater quality facilities as long as the minimum vegetated buffer is retained. Buildings, access ways or parking areas are prohibited in the Easement Property except where an access way has been approved by the Grantor, per ADC 9.230. Maintenance of the Easement Property is the responsibility of the Grantee. The Grantor shall have access to the Easement Property for landscaping and maintenance purposes at all times.

The easement reserved herein shall be enforceable as a restrictive covenant upon the land affected hereby, shall run with the land affected hereby, and shall be binding upon and inure to the benefit of such land, each person having or acquiring any right, title or interest therein or any part thereof or any improvements thereon, and upon their respective successors, heirs and assigns owning all or a portion of such land.

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

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$1 and other valuable consideration which includes the settlement of a property title dispute.

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.

Grantee hereby agrees to all of the above stated terms and will cooperate fully to insure the that all terms stated above can be accomplished by Grantor.

IN WITNESS WHEREOF, the Grantor has executed this instrument this 27th day of October, 2015.

<p>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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.</p>	<p><u>Wes Hare</u> City of Albany - Grantor</p> <p><u>Elizabeth M Rapp</u></p> <p><u>Mindy G Jones</u></p> <p><u>Frank W Moore Jr</u> Trustees of the Trustees of the Frank and Winifred Moore Revocable Living Trust dated November 18, 1996 - Grantee</p>
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ARIZONA

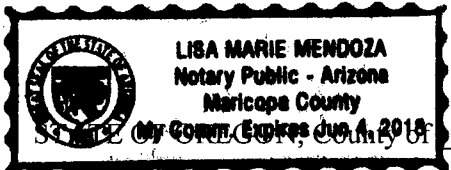
STATE OF OREGON, County of Maricopa ss.

This instrument was acknowledged before me on the 23rd day of October, 2015, by

Elizabeth M Rapp

Lisa Marie Mendoza
NOTARY PUBLIC FOR OREGON

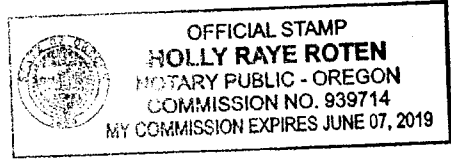
ARIZONA



This instrument was acknowledged before me on the 27 day of October, 2015, by

Wes Hare

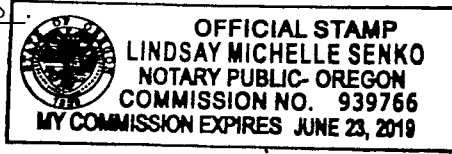
Holly Rote
NOTARY PUBLIC FOR OREGON



STATE OF OREGON, County of DESCHUTES) ss.

This instrument was acknowledged before me on the 22 day of October, 2015, by

WENDY JONES

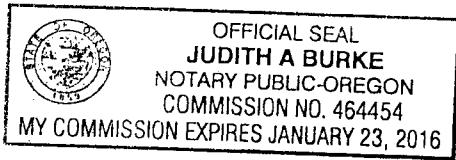


Lindsay Michelle Senko
NOTARY PUBLIC FOR OREGON

STATE OF OREGON, County of Linn) ss.

This instrument was acknowledged before me on the 20th day of October, 2015, by

FRANK W MOORE JR.



Judith A. Burke
NOTARY PUBLIC FOR OREGON

EXHIBIT A

The eastern 8 feet, of the southern 60.78 feet, of Parcel 2 of Linn County, Oregon, Partition Plat 2015-20

EXHIBIT B
EASEMENT PROPERTY

The northern 40 feet, of the eastern 8 feet, of the southern 60.78 feet, of Parcel 2 of Linn County, Oregon, Partition Plat 2015-20

Dibble, Mary

To: Sean Kidd
Subject: RE: Frank Moore quitclaim deed and easement

Yes definitely keep these for City records for future inquiries on this. Although it is not the way we normally would do it the recordings should suffice to accomplish the intent of the parties. Thanks for your help as well. "-)

M. Sean Kidd
Delapoer Kidd, PC
201 First Avenue W., Suite B
Albany, Oregon 97321
(541) 926-5505

-----Original Message-----

From: Dibble, Mary [<mailto:Mary.Dibble@cityofalbany.net>]
Sent: Thursday, October 29, 2015 9:32 AM
To: Kidd, Sean
Subject: RE: Frank Moore quitclaim deed and easement

Sean, thanks for looking at these two documents with me yesterday before the Council meeting. You determined that even though there were two separate recordings, both actions were in fact recorded (quitclaim deed first and then the easement), which is sufficient.

I will keep this email with the documents to explain why the recordings happened in the order they did.

Thank you,

Mary Dibble, MMC
City Clerk
City of Albany
PO Box 490
Albany, OR 97321
541-917-7532

-----Original Message-----

From: Work Email [<mailto:sean@longdel.com>]
Sent: Wednesday, October 28, 2015 3:23 PM
To: Dibble, Mary
Subject: Re: Frank Moore quitclaim deed and easement

How did a quit claim deed get recorded without the easement language? It was in the body of the document. We need to record the document with all signatures on it which will basically make the first one moot.

Sent from my iPhone

> On Oct 28, 2015, at 3:16 PM, Dibble, Mary
> <Mary.Dibble@cityofalbany.net>
wrote:

>
> Hi Sean,
>
>
> On Oct 14, Council approved the (revised) quitclaim deed and easement
> (on
the dais) for the Trustees of Frank and Winifred Moore. A few days later I took the document
to Linn County in order for them to record the quitclaim deed (which they did, per recording
number 2015-16878.) The document I recorded had just Wes' signature, which I notarized.
>
> In the meantime, Holly received (what appears to be with a quick
> glance)
the same document, except that the month on page two after the "IN WITNESS WHEREOF..."
statement was changed from September to October, and there were
several signatures in addition to Wes'. We took it to Linn County and
they noted that the "easement" had not been recorded last week under 2015-16878, only the
quitclaim deed had been. So, today, they recorded the easement in a separate transaction
(2015-17534). I changed the "return to"
from your name to City of Albany so I could take the document with me and send you this
email.
>
>
> 1- Are these two recordings legally sufficient? Or should we do
something else?
>
> 2- Do you need the originals back or can I keep them?
>
> Next time there is a document that comes from your office, I will be more careful to
coordinate with Laura R about who does what. Very sorry for the mix-up, I should have asked
more questions.
>
> Mary Dibble, MMC
> City Clerk
> City of Albany
> PO Box 490
> Albany, OR 97321
> 541-917-7532
>
>
>
> _____
> **DISCLAIMER:** This e-mail may be a public record of the City of Albany
> and
may be subject to the State of Oregon Retention Schedule and may be subject to public
disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is
for the sole use of the intended recipient(s) and may contain confidential and privileged
information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you
are not the intended recipient, please send a reply e-mail to let the sender know of the
error and destroy all copies of the original message.
> <winmail.dat>