

## CITY OF PORTLAND, OREGON

## REAL ESTATE OPTION

GRANTOR Bernard K. Smith MAIL ADDRESS 1315 N. Going Street  
 GRANTOR Eleanor M. Smith MAIL ADDRESS Portland, Oregon 97217  
 \_\_\_\_\_ MAIL ADDRESS \_\_\_\_\_  
 AGENT OF GRANTOR \_\_\_\_\_ MAIL ADDRESS \_\_\_\_\_

IN CONSIDERATION of the payment of one dollar (\$1.00) by the CITY OF PORTLAND, OREGON, hereinafter referred to as "City", to the undersigned, the receipt of which is hereby acknowledged by the undersigned, and in consideration of the plans and purpose of the City to use, develop, operate and sell the real property hereinafter described for private or public purposes, and in consideration of the hereby acknowledged benefit that will inure thereby to the undersigned or to the public, whether tangible or not, we the undersigned, jointly and severally, for ourselves and our heirs, executors, administrators, successors and assigns, hereby give and grant to the City, upon the terms and conditions hereinafter stated, the option to buy the following described real property in the City of Portland, County of Multnomah and State of Oregon, to-wit:

City I.D. #48 (PDC Parcel No. GS-MP-9-7&8/TL2

See legal description attached, marked Exhibit "A"

for the sum of Thirty-two Thousand Five Hundred Dollars (\$ 32,500.00 )

to be paid as follows: Thirty-two Thousand Five Hundred Dollars (\$ 32,500.00 )

upon conveyance of marketable title and delivery of a title insurance policy to the City as hereinafter provided; and \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )  
 upon delivery of possession to and acceptance by the City as hereinafter provided.

The City shall have the irrevocable right at any time within sixty (60) days from date hereof to elect to purchase under this option. Such election to purchase shall be made by the City by delivering to the undersigned, or by mailing by registered mail at any United States post office to the undersigned, addressed as follows:

Mr. and Mrs. Bernard K. Smith  
 1315 N. Going Street  
 Portland, Oregon 97217

written notice of such election. Such notice shall be deemed to have been given the day of such delivery, or the day following such mailing by registered mail. Upon the giving by the City of such notice, the undersigned agree AT OUR OWN EXPENSE AND WITHIN TEN (10) DAYS OF THE GIVING OF SUCH NOTICE TO:

(1) Convey said property with appurtenances, hereditaments and tenements to the City by Warranty Deed in such name as it may prescribe, free and clear of all liens and encumbrances, rights of possession, claims to rights of possession, and recorded and/or unrecorded leasehold interests, except building restrictions of record and zoning ordinances, and quitclaim all right, title and interest which the undersigned may have in any alleys, roads, streets, ways, strips, easements, gores or rights of way abutting or adjoining said property and in any means of ingress or egress appurtenant to said property.

(2) Furnish to the City at City's expense an owner's policy of title insurance in the amount of said purchase price prepared by Pioneer National Title Insurance Co. (Order No. 492789) insuring the City as fee simple owner of said property free and clear of all liens and encumbrances except said building restrictions of record and zoning ordinances.

(3) Pay all delinquent taxes and assessments against said property for the preceding tax years, and pay proportional part of current real property taxes prorated as of date of closing of escrow.

(4) Pay all water bills charged to the property as of date of closing of escrow.

(5) Deliver to the City possession of said property at the closing of escrow, provided that with respect to property or portion thereof which the undersigned occupies for his own use, possession of such occupied property or portion shall be delivered to the City within ninety (90) days of closing of escrow.

(6) Deliver to the City or its order a full set of keys for property, including outside keys and separate keys for each apartment or compartment, if applicable, and furnish the City complete list of tenants, amounts of rents paid by each, dates rents are due, amounts paid in advance, all advance rents to be prorated as of date of closing of escrow.

The purchase hereunder will be closed in an escrow, and the escrow fee shall be paid by the purchaser. The undersigned hereby authorize \_\_\_\_\_ to sign the escrow instructions or amendments thereto, or any other statements required by the City other than Warranty Deed on behalf of all sellers in this transaction.

In the event that any portion of this property is vacant at the date of notification of the acceptance of this option by the City, or becomes vacant subsequent thereto, the undersigned agree not to re-rent or re-lease such vacated or vacant property.

It is specifically understood and agreed that the real property herein agreed to be conveyed, unless stated to the contrary herein, includes all structures, buildings, fixtures, trees, shrubbery and all other real property improvements of every nature whatsoever which are on the said property, and the undersigned agree to keep the same in good condition without waste, damage or destruction prior to delivery of possession thereof to the City.

In compliance with Public Law 91-646, the price stated herein is the just compensation for the fee title of the real property based upon two independent fee appraisals and the fair market value established by the Reviewing Appraiser.

The undersigned agree that loss or damage to the property by fire or other casualty shall be at the risk of the undersigned until the title to the land and deed to the City shall have been accepted by the City; and in the event that such loss or damage occurs, the City may, without liability, refuse to accept conveyance of title. Or, in the event of loss or damage to said property from fire, which property is covered by insurance held by or on behalf of the undersigned or in which the undersigned may have rights, the City may elect to take the proceeds from said insurance upon exercise of this option, and the undersigned shall assign such proceeds to the City, which proceeds shall be applied to reduce the sale price of the property by amount of such proceeds.

In the event the City does not deposit the purchase price with the escrow holder within a period of sixty (60) days from date hereof, this option shall remain in force thereafter until the undersigned shall terminate this option by giving thirty (30) days prior written notice to the City of such termination.

The undersigned agree that the City may, at its election, and notwithstanding the City's prior election to purchase under this option, acquire title to said land or any portion thereof or any interest therein, by condemnation or other judicial proceedings, in which event the undersigned agree to cooperate with the City in the prosecution of such proceedings and also agree that the said purchase price shall be the full amount of the award of just compensation, including interest, for the taking of said property, and that any and all awards of just compensation that may be made in the proceedings to any defendant shall be payable and deductible from the said purchase price.

Entry by the City, its employees or agents, upon said property for the purpose of inspection or survey or any slight or inadvertent entry without material damage or injury to the realty, or without the exercise of dominion thereover to the exclusion of the undersigned, shall not be construed as a final election to close this option.

It is further agreed that no statements, expressions of opinion, representations or agreements of any nature whatsoever, not herein expressly stated, made by any representative or agent of the City shall be binding on, or of any effect against, the City.

The undersigned expressly acknowledge that all items of damages, all sums of money to be paid, and all things to be done by the City are included in this option. All claims for damages, injury, or loss on account of failure to close this option are, hereby, expressly waived by the undersigned. The undersigned agree that they shall have no claim or cause of action against the City or any of its employees except such as may arise by reason of this agreement.

If the undersigned shall fail, due to fault or neglect of the undersigned, to comply with the provisions of this option, and suit or action is instituted by the City to enforce the same or to condemn the property, the undersigned agree to pay, in addition to the costs and disbursements provided by statute, such additional sum as the Court may adjudge reasonable for attorney's fees to be allowed in said suit or action.

Dated this 17<sup>th</sup> day of December, 19 80.

Bernard K. Smith  
Eloise M. Smith

## EXHIBIT "A"

LEGAL DESCRIPTION

The following described property in the City of Portland,  
County of Multnomah and State of Oregon.

Beginning at a point in the West line of Lot 7, Block 9, of  
M. Patton's Addition to Albina, 9.5 feet North of the Southwest  
corner of said Lot 7; thence Easterly 39.5 feet to a point  
which is 9 feet North of the South line of Lot 7; thence  
South parallel to the West line of Lot 7 and of Lot 8, in said  
Block 9, 59 feet to the South line of Lot 8; thence West along  
said South line of Lot 8, 39.5 feet to the Southwest corner of  
said Lot 8; thence North along the West line of Lots 7 and 8,  
to the place of beginning.

ORDINANCE NO. **151068**

An Ordinance authorizing the exercise of an option to purchase part of Lots 7 and 8, Block 9, M. PATTON'S ADDITION TO ALBINA, from Bernard K. and Eleanor M. Smith which is necessary for the Going Street Noise Mitigation Project; authorizing the Portland Development Commission to close the sale in accordance with the terms of the Option; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. By Ordinance No. 149090 the City of Portland entered into an agreement with the Portland Development Commission to perform right-of-way acquisition and relocation services for the Going Street Noise Mitigation Project.
2. In conjunction with said project the Portland Development Commission has obtained on behalf of the City of Portland, an option to purchase the following described real property:

The following described property in the City of Portland, County of Multnomah and State of Oregon:

Beginning at a point in the West line of Lot 7, Block 9, of M. PATTON'S ADDITION TO ALBINA, 9.5 feet North of the Southwest corner of said Lot 7; thence Easterly 39.5 feet to a point which is 9 feet North of the South line of Lot 7; thence South parallel to the West line of Lot 7 and of Lot 8, in said Block 9, 59 feet to the South line of Lot 8; thence West along said South line of Lot 8, 39.5 feet to the Southwest corner of said Lot 8; thence North along the West line of Lots 7 and 8, to the place of beginning.

3. That the purchase price stated in the option (\$32,500) is within the amount determined by the review appraiser to be the just compensation for the property.
4. That it is necessary and expedient to acquire the above described real property in connection with the Going Street Noise Mitigation Project.

NOW, THEREFORE, the Council directs:

- A. That the City of Portland hereby elects to exercise the Option attached hereto as Exhibit "A", and purchase the property as described above from BERNARD K. and ELEANOR M. SMITH.

## ORDINANCE No.

- B. That the Portland Development Commission is authorized to close the sale in accordance with the terms of the Option.

Section 2. The Council declares that an emergency exists because delay in closing this transaction could have a significant negative impact on the project schedule; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

ORDINANCE NO. 151068

DATE

Resolved, the Portland Development Commission be and it is the intention of the Council that the Portland Development Commission be authorized to close the sale in accordance with the terms of the Option.

FEB 12 1981

FEB 12 1981

ORDINANCE NO. 151068

PORTLAND DEVELOPMENT COMMISSION

Passed by the Council, FEB 12 1981

Commissioner Lindberg  
January 26, 1981  
R.C. Ireland: DEL

Attest:

*Serge Gubovich*  
Auditor of the City of Portland

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Jordan	/	
Lindberg	/	
Schwab	/	
Ivancie	/	

FOUR-FIFTHS CALENDAR	
Jordan	
Lindberg	
Schwab	
Ivancie	

Calendar No. <sup>390</sup>~~282~~

## ORDINANCE No. 151068

### Title

An Ordinance authorizing the exercise of an option to purchase part of Lots 7 and 8, Block 9, M. PATTON'S ADDITION TO ALBINA, from Bernard K. and Eleanor M. Smith which is necessary for the Going Street Noise Mitigation Project; authorizing the Portland Development Commission to close the sale in accordance with the terms of the Option; and declaring an emergency.

FEB 4 1981

CONTINUED TO FEB 5 1981

FEB 5 1981

CONTINUED TO FEB 12 1981

Filed JAN 29 1981

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By George Yerkovich  
Deputy

INTRODUCED BY
Commissioner Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <u>TDL/MS</u>

BUREAU APPROVAL
Bureau:
Prepared By: Date:
RCI: djf 1-27-81
Budget Impact Review:
<input type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head:

CALENDAR
Consent <input checked="" type="checkbox"/> Regular

NOTED BY
City Attorney <u>[Signature]</u>
City Auditor
City Engineer