

Calendar No. 93

ORDINANCE No. 147066

Title

An Ordinance authorizing the Mayor and Commissioner of Public Utilities to execute an option agreement with the State of Oregon, authorizing the execution of a deed, conveying title to real property, granting a temporary construction easement related to the widening of Powell Boulevard, identifying additional resources in the General Fund in the amount of \$145,000, transferring and increasing appropriations in that amount to the Bureau of Facilities Management, transferring \$40,000 within the General Fund from General Fund Operating Contingency to the Bureau of Facilities Management, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:

	Yeas	Nays
Ivancie	1	
Jordan	1	
McCready	1	
Schwab		
Goldschmidt		

FOUR-FIFTHS CALENDAR

Ivancie	
Jordan	
McCready	
Schwab	
Goldschmidt	

Filed JAN 5 1979

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

Jordan Cravel
Deputy

INTRODUCED BY
Commissioner Ivancie

NOTED BY THE COMMISSIONER

Affairs
Finance and
Administration

Safety

Utilities

Works

FST/ARL

BUREAU APPROVAL

Bureau:

Facilities Management

Prepared By:

ALYN R. STALEY 1/4/79

Budget Impact Review:

Completed Not required

Bureau Head:

NOTED BY

City Attorney

City Auditor

City Engineer

[Signature]

ORDINANCE NO. 147066

An Ordinance authorizing the Mayor and Commissioner of Public Utilities to execute an option agreement with the State of Oregon, authorizing the execution of a deed, conveying title to real property, granting a temporary construction easement related to the widening of Powell Boulevard, identifying additional resources in the General Fund in the amount of \$145,000, transferring and increasing appropriations in that amount to the Bureau of Facilities Management, transferring \$40,000 within the General Fund from General Fund Operating Contingency to the Bureau of Facilities Management, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds

1. That the State of Oregon will use Mt. Hood Freeway transfer funds to widen a portion of S.E. Powell Boulevard.
2. That this widening will result in the loss of approximately 20 feet from the front end of Stable #2.
3. That the loss of this portion of Stable #2 will significantly disrupt the operations of the Bureau of Fleet Management and require the machine and body shops to be relocated.
4. That, in recognition of this, the State of Oregon has offered the City \$185,000.00 as compensation.
5. That, prior to this offer by the State, the City received \$2.97 million from the Economic Development Administration to remodel Stanton Yard.
6. That this grant project included the relocation of certain Bureau of Fleet Management operations, including the body and machine shops, to Stanton Yard.
7. That no bids were received within the amount of resources available within the grant.
8. That when a bid was awarded the Council directed the Bureau of Facilities Management to reduce the scope of the project through the use of change orders and further earmarked funds available from the State of Oregon as a result of the Powell Boulevard widening to supplement the grant.

9. That of the \$185,000.00 available, an estimated \$85,000.00 will be required to satisfy the terms and conditions of the option. These conditions require that twenty feet be removed from the front of the building. If less than \$85,000.00 is required, the surplus will be returned to the General Fund.
10. That the remaining \$100,000.00 should supplement the Stanton Yard E.D.A. grant.
11. That the State will make a payment of \$145,000.00 to the City in accordance with the terms of this option within six to eight weeks following approval of the option.
12. That the remaining \$40,000.00 will be retained by the State until the City fulfills its obligations under the terms of the option. This amount will be paid to the City in September, 1979.
13. That the remaining \$40,000.00 is required now to comply with the terms and conditions of the option. Therefore, funds in this amount should be provided from General Fund Operating Contingency (Unforeseen Reimbursible Expenditures.)

NOW, THEREFORE, the Council directs:

- a. The Mayor and Commissioner of Public Utilities are hereby authorized to execute an option agreement and voucher with the State of Oregon, such agreement to be substantially in conformance with Exhibit "A".
- b. The Mayor and Auditor are hereby authorized to execute a bargain and sale deed, such deed to be substantially in conformance with Exhibit "B".
- c. The Mayor and Auditor are hereby authorized to execute a temporary easement, such easement to be substantially in conformance with Exhibit "C".
- d. Exhibits "A", "B", and "C" are to be delivered to the State of Oregon, Department of Transportation, 5821 N.E. Glisan, % Gene St. Clair.
- e. Resources in the amount of \$145,000 are receipted in the General Fund and Appropriations are increased within the 1978-79 budget of the Bureau of Facilities Management as follows:

34300046	.620	\$100,000.00
34900183	.620	\$ 45,000.00
- f. \$40,000.00 is transferred from General Fund Operating Contingency (Unforeseen Reimbursible Expenditures) (BUC 20200022) to the Bureau of Facilities Management (BUC 34900183 .620).

Exhibit "A"

1. The City of Portland at their own expense and before the date the State is to receive possession is to sever the building, including foundation and basement concrete slab, so that the portion of the improvements on the property to be acquired by the State shall be freestanding from that portion of the building to be retained by the City. The City will remove the severed portion of the building located on the property being acquired by the State, and will backfill this area to match the existing sidewalk grade.
 2. As an essential part of this transaction it is understood and agreed that the sum of \$40,000 shall be withheld from said consideration to guarantee that the provisions stated within item 1 above will be completed in the agreed time. If the City of Portland has not severed the improvements by September 1, 1979, the State or its contractor can sever the building, wrecking whatever portion of the building on the City's remaining property as may be necessary to complete the severing of the building, free and clear of any claim for damage or liability to the City's remaining property. Any costs incurred by the State, its agents or contractors for the severing of the building, providing a temporary plywood wall, and cleanup are to be deducted from said deposit.
 3. Should the City of Portland sever the building as indicated in this agreement, the City shall be entitled to retain any portion of the building removed by said City from the property to be acquired by the State.
 4. There will be no restriction of access to the City of Portland remaining property.
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Form E-353 Revised 10-60

OREGON STATE HIGHWAY COMMISSION

File No. 49604

Grantor City of Portland Mail Address Bureau of Facilities Management

1020 S.W. Front Ave.

Mail Address Portland, Oregon 97204

Section Ross Island Br.-S.E. 52nd Ave. Highway Mt. Hood

County Multnomah Purpose R/W; Temporary Easement Agent Gene St. Clair

REAL ESTATE OPTION

IN CONSIDERATION of the surveys and plans that have been made or will be made and the purpose of the State to construct, reconstruct, improve, maintain, or repair the portion of the highways of the State for which the real property hereinafter described is necessary, or, to improve, maintain, and operate the said property for public park, scenic, recreational, camping, roadside development or parking purposes, and in consideration of the hereby acknowledged benefits that will inure thereby to the undersigned or to the public, we, the undersigned, hereby give and grant to the State of Oregon, by and through its State Highway Commission, upon the terms and conditions hereinafter stated, the option to purchase the following described real estate, to wit:

Survey Approval Project
Nonthroughway

PARCEL 1

A parcel of land lying in the NW $\frac{1}{4}$ of Section 11, Township 1 South, Range 1 East, W.M., Multnomah County, Oregon; the said parcel being described as follows:

Beginning on the Easterly line of the W $\frac{1}{2}$ of Lot 17, Block 9, TIBBETTS' HOMESTEAD, Multnomah County, Oregon at a point 3.0 feet Northerly of the Northerly right of way line of S. E. Powell Boulevard; thence Southerly along said Easterly line 3.0 feet to said Northerly right of way line; thence Westerly along said Northerly right of way line 200.85 feet to the intersection of said Northerly right of way line with the Southeasterly extension of the Southwesterly line of Lot 13, WATER BUREAU ADDITION, Multnomah County, Oregon; thence Northwesterly along said extension and the Southwesterly line of said Lot 13, a distance of 60.49 feet; thence Southeasterly in a straight line to the point of beginning, containing 3,662 square feet, more or less.

PARCEL 2 - A Temporary Easement for 4 years or duration of project, whichever is sooner, for a work area.

A parcel of land lying in the NW $\frac{1}{4}$ of Section 11, Township 1 South, Range 1 East, W.M., Multnomah County, Oregon; the said parcel being a strip of land extending from the Southwesterly line of Lot 13, WATER BUREAU ADDITION to the Easterly line of the W $\frac{1}{2}$ of Lot 17, Block 9, TIBBETTS' HOMESTEAD, Multnomah County, Oregon, said strip of land being 3 feet in width lying Northerly of and adjoining the Northerly line and Northerly line extended of Parcel 1, containing 771 square feet, more or less.

The State Highway Commission shall have the irrevocable right, at any time within six (6) months from the date hereof, to accept this option on the terms and conditions hereinafter set out.

2. (Title)
in & sale
case
tial

The undersigned agree to deliver to the State of Oregon, by and through its State Highway Commission, a good and lawful deed to said real estate, conveying the same free from all outstanding liens or encumbrances, INCLUDING TAXES DUE AND PAYABLE DURING THE FISCAL TAX YEAR IN WHICH THE DEED FOR THE SAID REAL ESTATE IS DELIVERED, OR, IF POSSESSION IS TAKEN PRIOR THERETO, THEN DURING THE FISCAL TAX YEAR IN WHICH POSSESSION IS TAKEN; and also free from all rights of lessees, tenants, or other persons claiming rights of possession, occupancy, or enjoyment of the premises. Unless stated to the contrary herein, the conveyance shall include all buildings, fixtures, emblements and appurtenances to the land herein described, including any building situated partially upon the owners' remaining land. It is further understood and agreed that the undersigned will furnish, without cost to the State, good and merchantable title, as a condition precedent to the paying of compensation. The undersigned further agree neither to sell nor encumber the said real estate during the term of this option.

3. (Consideration)

Upon the delivery of said deed and the clearing of title satisfactory to the State, as hereinabove set out, the undersigned, in the usual course and through the usual channels of auditing claims against the State, shall be paid the sum of ONE HUNDRED EIGHTY-FIVE THOUSAND AND NO/100 - - - DOLLARS (\$ 185,000.00)

as full payment of the purchase price of said real estate, including all damages, if any there be, by reason of the taking and use thereof. Also including chain link fence and gates which are located upon parcel number 1 described on front page of this option.

4. (Fencing)

In the event that a cash allowance is made for the construction of new fencing or the moving of existing fencing, the undersigned agree to construct promptly or move said fencing, as the case may be, and thereafter the same shall be maintained, repaired and reconstructed by the undersigned or their successors in interest. State may withhold that part of the cash consideration representing the cost of fencing until such time as the fence is constructed or moved. Fencing constructed by the State shall create no obligation on the part of the State for maintenance.

5. (Buildings)

Where buildings lie partially on the remaining property, it is agreed that the purchase price of the buildings includes any items of landscaping immediately surrounding the buildings or which may be destroyed as the result of the removal of the buildings. In such event the State shall not be obligated to remove any appurtenances lying outside the foundation of the building. Where buildings are removed, it shall be the responsibility of the State to level the foundation walls and fill basement areas on the remaining property. The State, its employees and contractors or assigns, shall have the right to enter the abutting property for the performance of the State's obligations and to move said buildings across the remaining property in the most feasible manner.

In the event that any building or other item proposed to be moved for the use and benefit of Grantor is destroyed or damaged before moving to an extent sufficient to render the same unusable, the State shall not be obligated to make payment for the cost of moving or re-establishing the same. In the event that any buildings, fixtures, appurtenances or other things are to pass to and become the property of the State in connection with the real property herein covered, the undersigned agree to turn the same over to the State in as good condition as they are now and shall prevent any waste, damage or destruction, other than ordinary wear and tear.

State may withhold that part of the cash consideration representing the cost of moving until the land conveyed has been cleared of improvements to be moved.

6. (Possession)

Unless otherwise provided herein, the State shall have the right to enter upon and take possession of the land upon the execution and delivery of this option, but entry upon said premises 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.

The undersigned shall surrender possession of ~~XXXXXX~~ land ~~XXXXXX~~ no later than 9/1/79 ~~XXXX~~ or 30 days after tender of final payment, excluding deposit, whichever is later.

7. (State's Other Obligations)

The State will construct at the time of the highway construction, at the locations and widths specified, the following road approaches:

In addition to the above purchase price, the State is to do the following things:

- 1. State to pay all recording fees incurred in this transaction.
2. State shall furnish Title Insurance.
3. Grantor's existing driveways on S. E. Powell Blvd. will be reconnected in kind.
4. Reasonable access will be maintained to the Grantor's remaining property during the course of construction.

Any construction lying outside of the traveled portion and shoulders of the highway which is made for the use and benefit of the abutting property, either under the terms of this option or the construction plans, shall be completed in conformance with normal engineering construction practices and thereafter shall be maintained or reconstructed by the property owner, in accordance with Section 374.305, et seq., ORS and other applicable statutes and regulations. The undersigned hereby grant the State, its employees or contractors, permission to enter upon their remaining property for the purpose of performing any of said construction work.

It is expressly understood that the State shall not be obligated further than as herein stated.

8. (Grantor's Other Obligations)

As a part of the consideration above stated, the undersigned agree to do the following additional things at their own cost and expense:

In the event that this option is accepted, the undersigned agree to remove promptly from the limits of the real property herein covered the following reserved property or items:

The Grantor will sever the building including the foundation and basement slab floor on or outside of the proposed right of way line as per the attached Exhibit "A"

Any reserved property or items not removed on or before the date of possession above specified shall become the property of the State.

The undersigned expressly acknowledge that all items of damages, all sums of money to be paid, and all things to be done by the State are included in this option, and expressly agree that the consideration recited herein constitutes complete just compensation for the real property described above, including any and all damages which may result from the use of said real property and the construction, reconstruction or improvement of the highway, including any grade change damages. All claims for damages, injury, or loss on account of failure to close this option are hereby expressly waived.

Dated this _____ day of _____, 19_____

Reference to the State Highway Commission in this document means Department of Transportation, Highway Division as of July 10, 1973.

Witnesses: _____ [SEAL]

_____ [SEAL]

APPROVED AS TO FORM

State Printing 32154

Christopher P. Thompson
CITY ATTORNEY

_____ [SEAL]

_____ [SEAL]

TEMPORARY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, That THE CITY OF PORTLAND, a municipal corporation, a corporation duly organized and incorporated under the laws of the State of Oregon in consideration of other value given by the STATE OF OREGON does hereby grant unto said STATE OF OREGON, a temporary easement for Four (4) years or duration of project, whichever is sooner, for a work area.

AT LOCATION DESCRIBED BELOW:

A parcel of land lying in the NW¼ of Section 11, Township 1 South, Range 1 East, W.M., Multnomah County, Oregon; the said parcel being a strip of land extending from the Southwesterly line of Lot 13, WATER BUREAU ADDITION to the Easterly line of the W½ of Lot 17, Block 9, TIBBETT'S HOMESTEAD, Multnomah County, Oregon, said strip of land being 3 feet in width lying Northerly of and adjoining the Northerly line and Northerly line extended of Parcel 1, containing 771 square feet, more or less.

It is understood and agreed that no structure shall be erected upon said easement right of way without the written consent of the Commissioner of Public Utilities.

IN WITNESS WHEREOF, THE CITY OF PORTLAND, pursuant to an ordinance of its Council, duly and legally adopted, has caused these presents to be signed by its Mayor and Auditor, and its corporate seal to be hereunto affixed this _____ day of _____ A.D., 19 _____.

CITY OF PORTLAND

Mayor

Auditor

STATE OF OREGON
County of Multnomah

On this _____ day of _____ A.D., 19 _____, before me appeared _____ and _____ both to me personally known, who being duly sworn, did say that he, the said _____ is the _____ and he, the said _____ is the _____ of the CITY OF PORTLAND and that the seal affixed to said instrument is the corporate seal of the CITY OF PORTLAND, and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Council, and said _____ and _____ acknowledged said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, this day and year first in this, my certificate, written,

Notary Public

My commission expires

APPROVED AS TO FORM

Christopher P. Thomas
CITY ATTORNEY