

An Ordinance authorizing and providing for the purchase from Sophia Klosterman and John Klosterman of certain land for the extension of Oak Street, and fixing the terms and conditions of such purchase.

WHEREAS, the Council of the City of Portland did, in the year 1908, institute proceedings to open, lay out, establish and extend Oak Street from the west line of Park Street to the south line of Burnside Street in the City of Portland, under and pursuant to the provisions of the Charter of said City; and,

WHEREAS, in carrying out the said proceedings it became necessary to appropriate all of the real property lying between a westerly extension of the north and south lines of Oak Street and between the west line of Park Street and the south line of Burnside Street, including all that part of lots 5 and 8 block 67 in Couch's Addition to the City of Portland lying north of a westerly extension in its present course of the south line of Oak Street, containing three thousand seven hundred and eighty square feet, more or less, owned by Sophia Klosterman; and,

WHEREAS, the amount of the excess of damages over benefits accruing to the said property of Sophia Klosterman by reason of the said opening and extending of Oak Street was assessed by the viewers in said proceedings at thirty-five thousand, six hundred and forty (\$35,640.00) dollars, which assessment was duly adopted by the Council of the City of Portland; and,

WHEREAS, a warrant in the sum of thirty-five thousand six hundred and forty (\$35,640.00) dollars was duly drawn in favor of said Sophia Klosterman in said proceedings on the 7th day of December, 1911, and ever since said date has been and

now is in the possession of the Auditor of the City of Portland and ready for delivery to said Sophia Klosterman; and,

WHEREAS, by virtue of a decision of the Supreme Court of the State of Oregon, in the case of John Clark vs. The City of Portland, the effect of which decision was to render void the said proceedings for the opening of Oak Street so far as said proceedings affected or applied to the said property of Sophia Klosterman, and the City of Portland has therefore been unable to appropriate or enter upon said land of Sophia Klosterman; and,

WHEREAS, the said property of Sophia Klosterman has increased in value since the assessment of the viewers in said proceedings was adopted September 8, 1909, and Sophia Klosterman has refused to accept the said warrant drawn in her favor, and has refused to permit the City of Portland to appropriate or use said land, without paying therefor its present market value; and,

WHEREAS, it is deemed expedient and necessary that Oak Street be opened full width to Burnside Street as the said proceedings contemplated; and,

WHEREAS, said Sophia Klosterman, through her attorney, John Hall, has expressed a willingness to accept the sum of forty-six thousand (\$46,000.00) dollars in full payment for the appropriation for street purposes of all that part of lots 5 and 8 in Block 67, Couch's Addition to the City of Portland lying north of a westerly extension, in its present course, of the south line of Oak Street, and in full payment of all damage resulting to said lots and the improvements thereon by reason of the said opening and extension of Oak Street, now therefore,

The City of Portland Does Ordain as Follows:

Section 1. That the said offer be and hereby is accepted upon the terms and conditions herein set forth, to-wit: The Council of the City of Portland agrees to appropriate out of

the general fund of said city the sum of \$10,360.00, which said sum, together with the sum of \$35,640.00 for which a warrant has already been drawn out of the special fund created by the proceedings for the opening of Oak Street, making a total of \$46,000.00, shall be used for the purchase from Sophia Klosterman of all of that part of lots 5 and 6 in block 67, Couch's Addition to the City of Portland lying north of a westerly extension, in its present course, of the south line of Oak Street, containing three thousand seven hundred and eighty square feet, more or less, and the Mayor and Auditor are hereby authorized to draw warrants in accordance with and to carry out the terms of this ordinance; provided, that said purchase price shall be paid and said warrants delivered upon the following terms and conditions, and not otherwise: Warrants for the aggregate sum of \$45,500.00 shall be delivered to Sophia Klosterman upon presentation to the Auditor of the City of Portland of a warranty deed duly executed by said Sophia Klosterman and John Klosterman, her husband, conveying to the City of Portland said real property free from all encumbrances, which deed shall be accompanied by a certificate of the City Attorney to the effect that he has read an up to date abstract of title to said property and has found that the legal title to the same is vested in said Sophia Klosterman and John Klosterman free from all encumbrances, including the taxes assessed against the same during the year 1913. The said abstract of title shall be prepared by a competent abstractor or abstract company at the expense of Sophia Klosterman and shall be loaned by Sophia Klosterman to the City Attorney, and the City Attorney shall have ten days time from the date of its receipt by him within which to examine the same. Before said warrants are delivered Sophia Klosterman shall present to the Auditor a receipt acknowledging full payment, settlement and accord and satisfaction for

all claims which she has or may have against the City of Portland for damages of any kind or description accruing to her or to any of her property by reason of the extension of Oak Street or the proceedings leading up thereto. The said Sophia Klosterman shall within sixty days after the passage of this ordinance remove all buildings, structures, and rubbish from said land. A warrant for the balance of said purchase price, to-wit: the sum of \$500.00 shall not be delivered until the said land is so cleared. If Sophia Klosterman shall fail to remove the buildings, structures and rubbish from said land within the sixty days hereby limited therefor, then all buildings, structures, and improvements thereon shall at once become the property of the City of Portland, and shall be removed by the said City. The amount of the cost of such removal shall in that event be retained by the City out of the said balance of \$500.00 of the said purchase price, and the remainder, if any, shall be paid to Sophia Klosterman.

Sophia Klosterman shall within five days after the taking effect of this ordinance file in writing with the Auditor an unqualified acceptance of all the terms, provisions, and conditions of this ordinance, otherwise this ordinance shall be void.

Passed by the Council FEB 11 1914

H. B. ALBEE
Mayor of the City of Portland

Attest:

A. L. BARBUR
Auditor of the City of Portland.