

## CITY OF PORTLAND, OREGON

## REAL ESTATE OPTION

GRANTOR O. V. WIRTA and MAIL ADDRESS 1742 N. Going Court  
NORMA E. WIRTA MAIL ADDRESS Portland, Oregon 97217  
 \_\_\_\_\_ MAIL ADDRESS \_\_\_\_\_  
 \_\_\_\_\_ 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 accrue thereby to the undersigned or to the public, whether tangible or not, we the undersigned, jointly and severally, for ourselves and our heirs, successors, 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:

Parcel No. GS-ELA-2-14-17a (#42) 1742 N. Going Court

See Exhibit "A" attached hereto and made a part hereof.

for the sum of EIGHTEEN THOUSAND TWO HUNDRED EIGHTY & NO/100 Dollars (\$ 18,280.00 )

to be paid as follows: EIGHTEEN THOUSAND TWO HUNDRED EIGHTY Dollars (\$ 18,280.00 )  
& NO/100

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. O. V. Wirta  
 1742 N. Going Court  
 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 #495571) insuring the City as for 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 at \_\_\_\_\_ at \_\_\_\_\_ 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-PAID 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 to be taken, permanent and temporary easements, based upon two independent fee appraisals and the fair market value established by the Reviewing Appraiser.

The price also includes consideration for landscaping, shrubbery and approximately 200 L.F. of wire fencing (which shall be removed by the City) and damages to Lot 17, Block 2, ETHEL LYNN ADDITION TO THE CITY OF PORTLAND, the value of which has been determined in the manner set forth in the preceding paragraph.

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 27th day of April, 1981.

G. B. Wint  
Norma E. Wint

## EXHIBIT "A"

A parcel of land in Section 21, T1N, R1E, W.m., Multnomah County, Oregon, more particularly described as follows:

Beginning at the northwest corner of Lot 17, Block 2, ETHEL LYNN ADDITION, thence S.  $00^{\circ} 13' 00''$  W. 30.00 feet to the true point of beginning; thence in a southeasterly direction 56.10 feet to a point 55.44 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of said Lot 17; thence continuing in a southeasterly direction 52.42 feet to a point 71.17 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 16, Block 2, ETHEL LYNN ADDITION; thence continuing in a southeasterly direction 51.18 feet to a point 82.09 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 15, Block 2, ETHEL LYNN ADDITION; thence continuing in a southeasterly direction 50.40 feet to a point 88.46 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 14, Block 2, ETHEL LYNN ADDITION; thence S.  $00^{\circ} 13' 00''$  W., 11.54 feet; thence S.  $89^{\circ} 56' 31''$  W., 200.00 feet; thence N.  $00^{\circ} 13' 00''$  E., 70.00 feet to the true point of beginning, reserving to Grantor an easement to perpetually maintain, construct and reconstruct a lateral sewer line to N. Going Street, subject, however, to street waiver, including the terms and provisions thereof, executed by J. H. Friedrich and Ida M. Friedrich, to the City of Portland, dated November 13, 1980, recorded November 20, 1980, in Book 1485, page 444, Deed Records (affects Lots 14 and 15).

TOGETHER WITH a perpetual easement to construct, reconstruct and maintain a masonry wall and a foundation and lateral support of a masonry wall and to construct, reconstruct, and maintain a drainage system upon the following described real property, and subject to the following terms and conditions:

A parcel of land in Section 21, T1N, R1E., W.M., Multnomah County, Oregon, more particularly described as follows:

A strip of land 8.00 feet in width north of, and adjacent to, the following described centerline to wit:

Beginning at the northwest corner of Lot 17, Block 2, ETHEL LYNN ADDITION, thence S.  $00^{\circ} 13' 00''$  W., 30.00 feet to the true point of beginning, thence in a southeasterly direction 56.10 feet to a point 55.44 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of said Lot 17; thence continuing in a southeasterly direction 52.42 feet to a point 71.17 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 16, Block 2, ETHEL LYNN ADDITION; thence continuing in a southeasterly direction 51.18 feet to a point 82.09 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 15, Block 2, ETHEL LYNN ADDITION; thence continuing in a southeasterly direction 50.40 feet to a point 88.46 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 14, Block 2, ETHEL LYNN ADDITION, and there terminating.

Except for the rights granted herein, grant shall have the full use and control of the property included in this easement subject to the following conditions:

1. No change in the grade of the foundation or lateral support shall be allowed without written consent of the City engineer.
2. No structures or trees shall be permitted upon the property subject to this easement. City shall have the right without liability to remove any vegetation growing upon said property where, in the sole discretion of the City, it is necessary to carry out any purpose for which this easement is granted.
3. No vegetation of any kind shall be allowed to grow upon or overhang the wall to be constructed upon the foundation.
4. The City and its agents shall have the permanent right to go upon the property subject to this easement for the purpose of inspection, maintenance, and reconstruction of the foundation, the masonry wall to be constructed upon the foundation and the drainage system without liability for any damage to the property subject to this easement or to vegetation or personal property located thereon.

TOGETHER WITH a temporary easement for construction purposes for a period of three years or until construction is completed, whichever period is shorter, upon the following described real property and subject to the following terms and conditions:

A parcel of land in Section 21, T1N, R1E, W.M., Multnomah County, Oregon, more particularly described as follows:

A strip of land 10.00 feet in width, and 8.00 feet north of the following described centerline to wit:

Beginning at the northwest corner of Lot 17, Block 2, ETHEL LYNN ADDITION, thence S.  $00^{\circ} 13' 00''$  W. 30.00 feet to the true point of beginning; thence in a southeasterly direction 56.10 feet to a point 55.44 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of said Lot 17; thence continuing in a southeasterly direction 52.42 feet to a point 71.17 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 16, Block 2, ETHEL LYNN ADDITION; thence continuing in a southeasterly direction 51.18 feet to a point 82.09 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 15, Block 2, ETHEL LYNN ADDITION; thence continuing in a southeasterly direction, 50.40 feet to a point 88.46 feet S.  $00^{\circ} 13' 00''$  W. of the northeast corner of Lot 14, Block 2, ETHEL LYNN ADDITION and there terminating.

It is understood that the City will be letting a construction contract and will require that the contractor, the City and their agents, enter upon the above-described real property, and to store materials and equipment upon said real property for the purpose of construction of improvements in conjunction with the Going Street Noise Mitigation Project. City shall have the right without liability to remove any vegetation growing upon said property where, in the sole discretion of the City, it is necessary to carry out any purpose for which this easement is granted.

ORDINANCE NO. 151623

An Ordinance authorizing the exercise of an option to purchase part of Block 2, Lots 14 through 17, ETHEL LYNN ADDITION TO THE CITY OF PORTLAND, from O.V. and NORMA E. WIRTA 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 real property as follows:

Parcel GS-ELM-2-14-17a (#42) as described in Exhibit "A" attached to Real Estate Option attached hereto as Attachment "A".
3. That the purchase price stated in the option (\$18,280) is within the amount determined by the Reviewing Appraiser to be the just compensation for the property to be acquired, together with a permanent and temporary easement.
4. That it is necessary and expedient to acquire the above-described takings in connection with the Going Street Noise Mitigation Project.

## ORDINANCE No.

NOW, THEREFORE, the Council directs:

- A. That the City of Portland elects to exercise the Option attached hereto as Attachment A and purchase the property as described above from O.V. and Nomra E. Wirta.
- 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.

Passed by the Council, **MAY 27 1981**

Commissioner Lindberg <sup>Attest:</sup>  
R.C.Ireland:DEL  
May 18, 1981

  
Auditor of the City of Portland