

RESOLUTION NO. 17-8 URA

A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN OPTION AGREEMENT WITH UNION GOSPEL MISSION OF SALEM FOR THE PURCHASE OF REAL PROPERTY

Whereas, the primary objectives of the Riverfront/Downtown Urban Renewal Area Plan are to improve the overall appearance, condition, and function of the Riverfront/Downtown Urban Renewal Area to encourage a variety of river-oriented uses, to sustain and improve the economic vitality of the Central Business District, to relieve traffic congestion and railroad conflicts, to encourage the use of mass transit, and preserve and to create natural green belts along existing waterways; and

Whereas, the acquisition of real property for clearance and sale or lease for redevelopment is a permissible urban renewal activity under ORS Chapter 457; and

Whereas, the acquisition of real property is permitted under Section 600 “Project Activities Which May Be Used To Achieve Plan Objectives” and Section 1105 “Core Area Redevelopment” of the Riverfront/Downtown Urban Renewal Area Plan; and

Whereas, Section 3.4 of The Policies and Procedures For The Acquisition Of Real Property By The Urban Renewal Agency Of The City Of Salem requires the Agency Board to adopt a resolution at a public meeting identifying the real property to be acquired.

NOW, THEREFORE, THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM, OREGON, RESOLVES AS FOLLOWS:

Section 1. The Executive Director is hereby authorized to execute the real estate option agreement attached hereto as “Exhibit A” with Union Gospel Mission of Salem, Oregon.

Section 2. This resolution is effective October 23, 2017.

ADOPTED by the Urban Renewal Agency Board this 23rd day of October, 2017.

ATTEST:

Clerk of Board _____

Approved by City Attorney: _____

Checked by: C. Dameron

EXHIBIT A

PROJECT: 682093

REAL ESTATE OPTION AGREEMENT

BETWEEN: **UNION GOSPEL MISSION OF SALEM, OREGON,**
an Oregon non-profit corporation (“SELLER”)

AND: **THE URBAN RENEWAL AGENCY OF THE CITY
OF SALEM,** a quasi-municipal corporation (“BUYER”)

Seller and Buyer are sometimes hereinafter collectively referred to as the “Parties”.

Recitals:

A. Seller owns fee simple title to the real property in the City of Salem, Marion County, Oregon, more particularly described in *Exhibit “A”*, attached hereto and by this reference incorporated herein; and

B. Buyer desires to obtain from Seller, and Seller is willing to grant to Buyer, an exclusive option to purchase the real property and improvements, together with all other rights and tenements appurtenant to the real property and improvements, collectively referred to herein as the “Property”.

Agreement:

For and in consideration of *Seventy seven Thousand Five Hundred Dollars (\$77,500.00)* (“Option Fee”) payable by Buyer to Seller upon the execution of this Agreement by Seller and Buyer, the Parties agree as follows:

1. Grant of Option. Seller hereby grants to Buyer an exclusive and irrevocable option (the “Option”) to acquire the Property described in *Exhibit A* and as shown in *Exhibit B*, for the price and in accordance with the terms and conditions set forth in this Option Agreement (“Agreement”). The Option will be valid for a period of nine (9) months from the date this Agreement is last signed by all Parties hereto (“Option Period”). Unless extended by mutual agreement of the parties, upon the expiration of the Option Period, this Agreement shall terminate and be of no further force and effect. Should Buyer require additional time to complete its due diligence concerning the Property, Seller shall not unreasonably withhold consent for a reasonable extension of the Option Period.

2. Purchase Price. The purchase price for the Property (the “Purchase Price”) shall be the fair market value of the Property as determined by an appraisal to be performed by Powell Banz Valuation, LLC of Salem Oregon, to be conducted within ninety (90) days from the date this Agreement is last signed by all Parties hereto. PROVIDED, however, that the Purchase Price shall not be less than *One Million Five Hundred Thousand Dollars (\$1,500,000.00)*, and the Seller shall

not be obligated to sell the Property to the Buyer for a Purchase Price of less than \$1,500,000.00. The Seller and the Buyer shall each pay one-half of the cost of the appraisal. The Purchase Price shall be paid by the Buyer to the Seller in cash upon the closing of the sale and purchase. At closing, Buyer shall be given credit against the Purchase Price for the Option Fee. The Option Fee is consideration for the granting of the Option to the Buyer, shall be deemed fully earned by the Seller upon the payment thereof to the Seller, and will not be refundable to the Buyer under any circumstances except in the case that the Seller is not able to convey marketable title to the Property to the Buyer.

3. Environmental and Other Due Diligence. Seller agrees to provide Buyer with any and all previous environmental information in Seller's possession related to the Property. Seller also agrees to permit Buyer, its employees, contractors and vendors access to the Property, upon no less than 48 hours prior notice, to perform any additional environmental and other assessments necessary, as solely determined by Buyer, subject to the following conditions and limitations:

- A. Buyer will conduct, or cause to be conducted, its due diligence activities on the Property in a manner so as to not unreasonably disturb the Seller's ongoing operations upon and use of the Property.
- B. Buyer will pay when due and before delinquent all costs and expenses incurred in the conduct of Buyer's due diligence investigations of the Property, will not permit any liens or other encumbrances to attach to the Property in connection with Buyer's due diligence investigations, and will save and hold harmless and indemnify Seller against all such costs and expenses arising out of or pertaining to Buyer's investigations.
- C. In the event Buyer or Buyer's employees, contractors or vendors disturb any portion of the Property in the conduct of Buyer's due diligence investigations, Buyer will at its expense promptly restore the Property to its former condition upon the completion of its investigations.
- D. Upon Seller's request, Buyer will provide Seller with complete copies of all reports, studies, evaluations and other materials pertaining to the Property which are obtained by Buyer in the course of its due diligence investigations

4. Exercise of Option. Buyer may exercise the Option by giving Seller written notice of exercise of the Option conforming to the requirements of Section 6.4 not later than 5:00 P.M., Pacific Time on the date of expiration of the Option Period. Buyer's written notice of exercise of the Option shall be deemed given to Seller when actually received by Seller.

5. Purchase and Sale Agreement. Within 60 days after Seller receives Buyer's written notice of exercise of the Option, Seller and Buyer shall enter into a written Purchase and Sale Agreement setting forth the terms of the sale and purchase, which agreement shall:

- A. Provide that the sale will be on a cash basis, with the Buyer to pay the Purchase Price

(with credit against the Purchase Price for one-half of the Option Fee) in cash at closing.

- B. Provide for the Seller to obtain and furnish to Buyer a preliminary title report issued by a title insurance company selected by Seller showing the condition of title to the Property; and for the Seller, at Seller's expense to furnish Buyer with a standard owner's policy of title insurance covering the Property within 10 days after closing.
- C. Provide that the closing of the sale of the Property by Seller to Buyer shall occur within 60 days following execution of the Purchase and Sale Agreement.
- D. Provide that upon the closing of the sale, Buyer shall lease the Property back to the Seller under a written lease agreement executed by the Parties, for a period and upon terms and conditions mutually acceptable to Seller and Buyer.

6. General Provisions.

6.1 Ownership. During the Option Period, Seller will not voluntarily sell, contract to sell, assign, lease or otherwise transfer the Property or any interest therein, or grant an option to any third party to acquire all or any portion of the Property without first obtaining the written consent of the Buyer; but during the Option Period, Seller may continue to market the Property for sale or lease to one or more third parties in the event Buyer does not exercise the Option or the sale of the Property to Buyer does not close.

6.2 Repurchase Waiver. Seller hereby waives any and all rights of repurchase to real property or easements sold to Buyer, pursuant to ORS 35.385.

6.3 Governing Law. This Agreement shall be governed by the laws of the state of Oregon.

6.4 Notices. All notices or communications of any kind which may be required or permitted to be given under this Agreement shall be in writing and shall be served by personal delivery or by mailing a copy thereof addressed as follows:

To Seller:

Chief Executive Officer
Union Gospel Mission of Salem
745 Commercial Street, N.E.
Salem, Oregon 97301

To Buyer:

The Urban Renewal Agency of the City of Salem
Real Property Services Division

Attn: Clint Dameron
350 Commercial Street, N.E.
Salem, Oregon 97301

6.5 Time of the Essence. Time is of the essence of this Agreement, and of each term, covenant and provision contained herein.

7. Amendment. This Agreement may not be modified or amended except by the written agreement of the parties. No modification or amendment or attempted waiver of any provision of this Agreement shall be binding unless in writing and signed by the party to be bound.

8. Dispute Resolution. In the event of any dispute or disagreement between the Parties pertaining to the subject matter of this Agreement, if the Parties are unable to resolve such dispute or disagreement through informal negotiations, either Seller or Buyer may submit the dispute or disagreement to final and binding arbitration through the program administered by the Arbitration Service of Portland, in accordance with its then-existing rules. The prevailing party in any arbitration shall be entitled to recovery of all reasonable attorney fees, filing fees, costs, disbursements and arbitrator fees. The decision of the arbitrator shall be final and binding upon the Parties, and either Party may cause judgment to be entered in the Circuit Court of Marion County in accordance with the provisions of the arbitrator's decision.

9. Attorney Fees. Except as provided in section 8 above, each Party shall pay its own attorney fees and related costs and expenses incurred in connection with the negotiation and execution of this Agreement and in connection with the exercise of the Option and the completion and closing of the sale of the Property.

10. Entire Agreement. This Agreement sets forth the entire understanding of the Parties with respect to the Option herein granted, and supersedes any and all prior negotiations, discussions agreements and understandings between the Parties. This Agreement may not be modified or amended except by a written agreement executed by both Parties.

11. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same Agreement and shall be effective when one or more counterparts have been signed and delivered by Seller and Buyer.

12. Facsimile and E-Mail Signatures. Facsimile and E-mail transmission of any signed original document, and retransmission of any signed facsimile or E-mail transmission, will be the same as delivery of an original. At the request of either Party, the Parties will confirm facsimile and/or E-mail transmitted signatures by signing an original document.

13. Statutory Warning.

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, AND 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 OF 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective the date last signed by a Party.

SELLER:

BUYER:

Union Gospel Mission of Salem

Urban Renewal Agency of the City of Salem

by: Zoe Kluge

By: _____

Its: Beau Chairman

Its: _____

Date: 9/4/17

Date: _____

Exhibit A

Parcel 1

All of Lots 1, 2 and 7, Block 50, City of Salem, Marion County, Oregon. SAVE AND EXCEPT that portion awarded to the State of Oregon by Case #128707 Circuit Court Records for Marion County, Oregon. SAVE AND EXCEPT the Northerly 28.4 feet of said Lot 7.

Parcel 2

Beginning at the North East corner of Lot Three (3), in Block Fifty (50), of Salem, in Marion County, Oregon; and running thence Westerly along the North line of said Lot 3, Block 50, 165 feet, to the Northwest corner thereof; Thence Southerly along the West line of said Lot 3, 68.50 feet, more or less, to the North West corner of lands described in Deed from Grace L. Fawk, Executrix, to Saffron & Kline, recorded in Volume 221 on Page 264, Deed Records for Marion County, Oregon; thence Easterly parallel with the Southerly boundary line of said Block 77.65 feet to an iron pipe; thence Southerly 3.32 feet, parallel with the Western boundary line of said Lot 3 to an iron pipe set on the Westerly projection of the center line of a 12-inch brick wall; thence Easterly along the center line of said brick wall 87.35 feet to the Easterly boundary line of said Lot 3; thence Northerly 71.5 feet, more or less, to the place of Beginning; and being a part of Lot 3, Block 50, of Salem, in Marion County, Oregon, as shown by plat thereof recorded in Volume 1, on page 20, Record of Town Plats for said County and State.

AERIAL PHOTOGRAPH



EXHIBIT B