

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is entered into as of this ____ day of February, 2018 (the “**Effective Date**”), by and between Richard E. and Gayle L. Withnell (“**Seller**”), and the Urban Renewal Agency of the City of Salem, an Oregon quasi municipal corporation (“**Buyer**”). Buyer and Seller are each a “**Party**” and together the “**Parties**.”

RECITALS

A. Seller is the owner of that certain real property located in Marion County, Oregon, commonly known as 2640 Portland Road NE in Salem, as shown on Exhibit A and more particularly described on Exhibit B (the “**Property**”). The Property consists of approximately one and seven-tenths (1.70) acres.

B. Buyer desires to purchase the Property from Seller, and Seller wishes to sell the Property to Buyer, on the terms and conditions contained herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, Seller and Buyer agree as follows:

1. Agreement of Purchase and Sale. Subject to and upon the terms and conditions herein, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Property, together with all of Seller’s right, title and interest in and to any rights licenses, privileges, reversions and easements appurtenant to the Property.

2. Purchase Price. The purchase price for the Property (the “**Purchase Price**”) is ONE MILLION TWO HUNDRED FIFTEEN THOUSAND Dollars (\$1,215,000) all cash to Seller at the close of escrow.

3. Earnest Money. Within ten (10) days of the Effective Date, Buyer shall deliver to the Title Company the amount of Twenty-Five Thousand Dollars (\$25,000.00) (the “**Earnest Money**”) as earnest money. Should the transfer of property not occur for any reason, except those listed in Sections 5 and 6, the Earnest Money shall be fully due to Seller.

4. Environmental Review and Assessment. The parties acknowledge that Seller has provided Buyer a copy of the following documents:

- License and Permit of Entry for Groundwater Monitoring Well
- 2008/2009 Shell and Withnell Agreement
- 2013 Unocal and Withnell Agreement
- 2012 NFA for Unocal Site
- Summary of Environmental Reports
- 2014 URS Report for Shell Bulk Facility

- 2002 Summary of Environmental Services
- 1995 Level One Environmental Assessment

Seller represents and warrants that to the best of its knowledge these reports represent all environmental data and information in Seller's possession related to the Premises by Seller. The Parties further acknowledge that the Seller has multiple and complex business interests and it is possible that Seller may have received information in the past that they do not now recall, but are not knowingly withholding.

5. Title Company and Title Report.

(a) Title Company. On or before three (3) business days after the Effective Date, the Parties shall deposit an executed copy of this Agreement with Fidelity National Title Company of Oregon, 500 Liberty St. SE, Suite 200, in Salem, Oregon 97301 (the "**Title Company**").

(b) Title Report. Seller has delivered to Buyer a current preliminary commitment for title insurance for the Property, issued by the Title Company, together with copies of the underlying documents (the "**Title Report**").

6. Buyer's Review Period.

(a) Contingencies. Buyer's purchase of the Property is contingent on the following:

- (i) Buyer's written approval or waiver of any and all aspects and characteristics of the Property (including, but not limited to, title encumbrances, survey matters and zoning, inspections); within forty five (45) days after the Effective Date as herein defined; and
- (ii) Buyer's approval of the Title Report within forty five (45) days after the Effective Date as herein defined; and
- (iii) Buyer's written approval, satisfaction or waiver of any and all aspects and characteristics and matters of the environmental condition of the Property within forty five (45) days after the completion of environmental assessment as described in Section 7(c).

(b) Objection and Termination. If any condition set forth in Section 6(a) above is not satisfied to Buyer's satisfaction within the time periods provided after the Effective Date (the "**Review Deadline**"), then Buyer may terminate this Agreement by notifying Seller on or before three (3) business days after the Review Deadline, in which event the Parties shall have no further obligations under this Agreement and the Earnest Money shall be returned to Buyer. Buyer's failure to timely terminate this Agreement pursuant to this Section 6(b) shall be deemed a waiver or satisfaction of the conditions set forth in Section 6(a) above.

(c) Access.

(i) From the Effective Date through the Review Deadline, Seller grants to Buyer and Buyer's agents a right of reasonable access to the Property, for the purposes of inspecting the Property pursuant to Section 6(a) above. Buyer may obtain at Buyer's expense, a Phase I and, if necessary, a Phase II environmental site assessment of the Property. With respect to any inspection or testing that is invasive or involves digging, boring or removing any portion of the Property, Buyer must first submit to Seller a written request for any such invasive testing, and Buyer may not proceed with any such invasive testing unless Seller has given written approval of Buyer's plan; and Seller's approval shall not be unreasonably withheld, conditioned or delayed. Buyer shall conduct any such invasive testing in strict accordance with the plan approved by Seller. Seller will be entitled to have a representative present at all times during any inspection or testing on the Property. Buyer shall pay when due all costs and expenses of Buyer's inspections, tests and studies of the Property, including any repair costs necessitated by Buyer's inspections or testing, regardless of whether the Closing of the purchase and sale of the Property occurs. Buyer agrees to provide Seller with a true and complete copy of all environmental studies, tests, and reports that Buyer obtains in connection with its inspection of the Property.

(ii) *Indemnification.* Buyer shall protect, defend, indemnify and hold Seller and Seller's agents and employees harmless for, from and against any claims, liabilities, damages, liens, attorneys' fees, penalties, demands, causes of actions and suits of any nature whatsoever which are the proximate result of the entry onto the Property by Buyer, its agents, employees, representatives or contractors. This indemnity obligation shall survive the Closing or the termination of this Agreement, as applicable.

7. Buyer's Conditions to Close.

(a) Seller shall have timely performed, in all material respects, all of the obligations required to be performed by Seller by the terms of this Agreement, including delivery of all of the items required to be delivered by Seller pursuant to this Agreement; and

(b) Buyer shall have obtained a commitment from the Title Company to issue the Title Insurance Policy.

(c) Buyer may initiate a Phase I and a Phase II Environmental Assessment of the Premises. If either Phase I or Phase II results indicate environmental liability issues that are unacceptable to Buyer, then Buyer may, on written notice to Seller, terminate this Agreement and it shall be null and void for all purposes. If such written notice to terminate is not given to Seller on or before Closing, this condition shall be deemed waived by Buyer for all purposes.

8. Seller's Conditions to Close. The following are conditions precedent to Seller's obligations to consummate the transaction described herein:

- (a) Buyer shall have timely performed, in all material respects, all of the obligations required to be performed by Buyer by the terms of this Agreement, including delivery of all of the items required to be delivered by Buyer pursuant to this Agreement; and

9. Closing. So long as all conditions precedent to closing set forth herein have then been satisfied or waived in accordance herewith, the closing of the purchase and sale of the Property (“**Closing**”) under this Agreement shall take place no later than thirty (30) days from Buyer’s written satisfaction of all Contingencies and Conditions to Close.

The date on which Closing occurs is the “**Closing Date**.”

10. Conveyance of Property. At Closing, Seller shall convey the Property to Buyer by a warranty deed (the “**Deed**”) conveying fee simple title in Buyer, subject only to the Permitted Encumbrances.

11. Closing Costs and Taxes. Seller shall pay one-half of any closing fees, including escrow fees. Recording Fees, transfer taxes and assessments, deed stamps and one-half of any closing fees, including escrow fees, shall be paid by Buyer. Any property taxes paid by Seller shall be prorated as of the Closing Date, and Buyer shall be responsible for any additional or deferred taxes that may result from this sale or Buyer’s use of the Property. Each party shall pay its own attorney fees, consultant fees and costs, and other expenses solely incurred by that Party.

12. Buyer’s Closing Deliveries. On or before the Closing Date, Buyer shall deliver the following:

- (a) to the Title Company:
 - (i) all documents required to be executed in connection with this Agreement; and
 - (ii) immediately available funds in the amount of the Purchase Price minus the Escrow Amount, and Earnest Money, and the amount of all Closing costs and other expenses to be paid by Buyer at Closing pursuant to Section 11, above.
- (b) to the Escrow Company:
 - (i) immediately available funds in the Escrow Amount; and
 - (ii) the Escrow Agreement, executed by Buyer.

13. Seller’s Closing Deliveries. On or before the Closing Date, Seller shall deliver the following:

- (a) to the Title Company:
 - (i) the executed and acknowledged Deed; and

- (ii) immediately available funds in the amount of all Closing costs and expenses to be paid by Seller at Closing pursuant to Section 11, above.
- (b) to the Escrow Company, the Escrow Agreement, executed by Seller.

14. Representations and Warranties.

(a) Parties' Representations and Warranties. Each Party makes the following representations and warranties which are true on the date hereof and shall be true on the Closing Date as if made on such date:

- (i) *Power and Authority.* The Party is duly organized and existing under the laws of Oregon, and has the requisite right, power and authority to enter into and carry out the terms of this Agreement and the execution and delivery hereof and of all other instruments referred to herein. The Party has taken all action necessary to authorize the execution, delivery and performance of this Agreement. The performance by the Party of its obligations hereunder will not violate or constitute a default under the terms and provisions of any agreement, document or instrument to which the Party is a party or by which it is bound or affected. All proceedings required to be taken by or on behalf of the Party to authorize it to make, deliver and carry out the terms of this Agreement have been duly and properly taken.
 - (ii) *Validity of Agreement.* This Agreement and all other documents required by this Agreement to be executed by Party shall constitute, when so executed, the valid and binding obligation of the Party thereto, enforceable against it in accordance with their respective terms.
- (b) Survival. All representations and warranties made by the Parties hereunder shall survive Closing.

15. Purchase AS-IS; No Representations by Seller.

- (a) Buyer understands, acknowledges and agrees that Buyer is buying Property "AS-IS" and "WHERE-IS," with all faults and without any representations or warranties, express, implied or statutory, of any kind whatsoever (including, without limitation, any representations or warranties regarding environmental matters), by Seller, its agents, brokers, consultants, counsel, employees, managers or any other person, except those expressly set forth in this Agreement.
- (b) The Parties acknowledge that the closing of the sale of the Property is conditioned upon Buyer's inspection of the Property, to Buyer's satisfaction, as provided in Section 6, above. Buyer shall have the opportunity, prior to closing, to fully inspect, investigate and complete all due diligence relating to the Property.

16. Attorneys' Fees. In the event of any arbitration or litigation between the parties to declare or enforce any provision of this Agreement, the prevailing party or parties shall be entitled to

recover from the losing party or parties, in addition to any other recovery and costs, reasonable attorneys' fees incurred in such action in arbitration, trial and all appellate courts.

17. Statutory Disclaimer. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR 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 VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

18. Defaults and Failure to Close

(a) Default by the Seller. If the close of escrow and the consummation of this transaction herein contemplated does not occur by reason of any default by Seller, the Buyer shall be entitled to all available legal and equitable remedies, including the remedy of specific performance and the right to recover all its out-of-pocket expenses incurred in connection with the transaction.

(b) Default by the Buyer. If the close of escrow and the consummation of this transaction herein contemplated does not occur by reason of any default by Buyer, the Seller shall be entitled to all available legal and equitable remedies, including the remedy of specific performance and the right to recover all its out-of-pocket expenses incurred in connection with the transaction.

(c) Cancellation Charges. If this Agreement is terminated because of the Seller's default, the Seller will bear any cancellation charges required to be paid to the Title Company. If this escrow terminates because of the Buyer's default, the Buyer will bear any cancellation charges required to be paid to the Title Company. Otherwise, the Parties shall each pay one-half of any required cancellation charges.

19. Notices.

(a) Addresses. An “**Address**” means the address set forth beneath a Party’s signature on this Agreement. Any notices, demands, deliveries or other communications required under this Agreement shall be made in writing and delivered by one of the methods set forth in Section 19(b) below to the other Party’s Address, unless one Party modifies its Address by notice to the other Party, given in accordance with Section 19(b) below.

(b) Delivery.

Method of delivery	When notice deemed delivered
In person (including by messenger service)	the day delivered, as evidenced by signed receipt
Email or Fax	the day sent (unless sent after 5:00 p.m., P.T., in which case the email or fax shall be deemed sent the following business day)
US Mail (postage prepaid, registered or certified, return receipt requested)	the day received, as evidenced by signed return receipt
Courier delivery (by reputable commercial courier)	the day received, as evidenced by signed receipt

If the deadline under this Agreement for delivery of a notice is a Saturday, Sunday or federal or State of Oregon holiday, such deadline shall be deemed extended to the next business day.

20. Miscellaneous.

(a) Time is of the Essence; Calculation of Days. Time is of the essence in relation to the Parties’ performance of any and all of their obligations under this Agreement. Any reference in this Agreement to “days” shall mean calendar days, unless specified as “business days.” A business day is any day that is not a Saturday, Sunday or a federal or state of Oregon holiday.

(b) Integration. This Agreement constitutes the entire agreement between the Parties on the subject matter hereof. The Parties have no understandings, agreements or representations, oral or written, regarding this Agreement that are not specified herein.

(c) Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

(d) No Waiver of Performance. No waiver by a Party of performance of any provision of this Agreement by the other Party shall be deemed a waiver of nor prejudice the other Party’s right to otherwise require performance of the same provision, or any other provision.

(e) Severability. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and

provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

(f) Counterparts. This Agreement and any amendments hereto may be executed in two or more counterparts, each of which is an original, and all of which together are deemed one and the same document, notwithstanding that both Parties are not signatories to the same counterpart.

(g) Governing Law; Consent to Jurisdiction. This Agreement is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim between Seller and Buyer that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the jurisdiction of the Circuit Court of Marion County in the State of Oregon. Each Party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue and waives any claim that such forum is an inconvenient forum.

(h) No Presumption against Drafter. No inference, presumption or conclusion shall be drawn against either Party by virtue of that Party having drafted this Agreement or any portion thereof.

(i) Brokers. Seller and Buyer warrant to each other that Buyer is not represented by a broker and Seller is represented by Jeff Corner of Corner Commercial Real Estate (Broker) and that Seller is solely responsible for any commission due Broker related to this Agreement.

(j) Exhibits. The Exhibit listed below is incorporated as part of this Agreement:

Exhibit A: Site Map
Exhibit B: Legal Description

[remainder of page intentionally left blank]

Each person signing this Agreement below on behalf of a Party represents and warrants that he or she is duly authorized by such Party and has legal capacity to do so.

SELLER:

Richard E. Withnell

Gayle L. Withnell

Date: _____

Date: _____

Address: P.O. Box 6105
City, State, ZIP: Salem, OR 97304
ATTN:

BUYER:

The Urban Renewal Agency of the City of Salem, an Oregon quasi municipal corporation

By: _____

Date: _____

Name: _____

Its: _____

Address: 350 Commercial St. NE
City, State, ZIP: Salem, OR 97301
ATTN: Clint Dameron

EXHIBIT A
Site Map

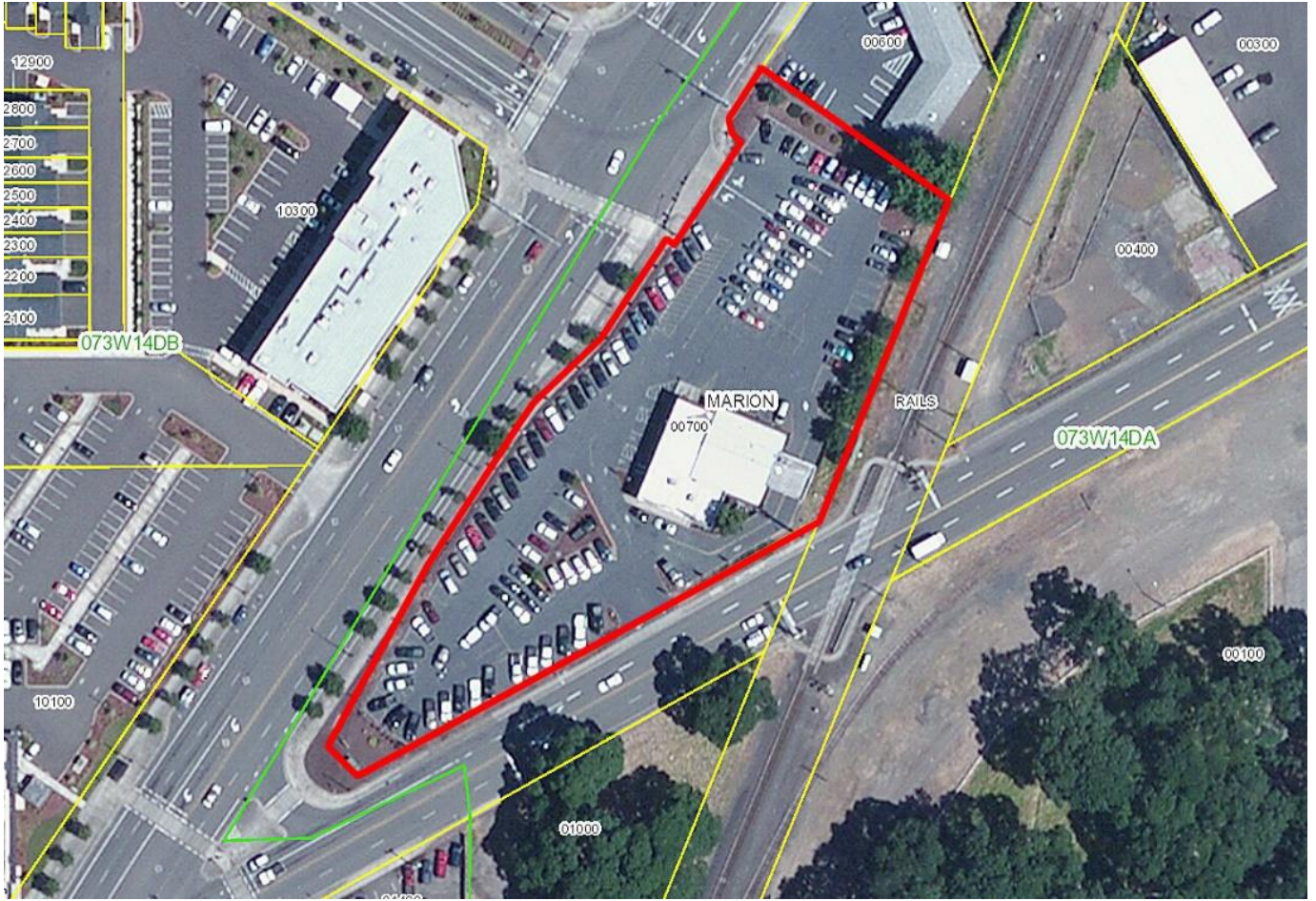


EXHIBIT B
Legal Description

Beginning on the East boundary line of Donation Land Claim of Samuel Penter and wife in Township 7 South of Range 3 West of the Willamette Meridian in Marion County, Oregon, at a point 1,338.35 feet South 1°24' West of the Northeast corner of said Donation Land Claim said point of beginning being also 161.4 feet South 1°24' West of the Southwest corner of the Gregson's Addition to the City of Salem, Oregon; and from thence running South 88°40' East 523 feet to an iron pipe set in the Easterly boundary line of the Pacific Highway for the beginning of this description: said point being on the North line of the tract of land conveyed to Harrison Doe by deed recorded March 18, 1907 in Volume 95, page 178, Deed Records and from thence running South 23°42' East 161.2 feet to the Westerly boundary line of the Southern Pacific Railroad right of way, thence South 22°15' West along the Westerly boundary line of said right of way, 259.5 feet to an iron bar, said point being the Northeast corner of the tract of land conveyed to Orvill P. Wenger, et ux, by deed recorded June 24, 1922 in Volume 169, page 103, Deed Records of Marion County, Oregon; thence North 55°30' West along the North line of said Wenger Tract, 192 feet to an iron pipe set in the Easterly boundary line of the Pacific Highway, thence North 34°30' East, along the Easterly boundary line of said Highway, 338.6 feet to the place of beginning.

SAVE AND EXCEPT: Beginning at a point on the East boundary line of Pacific Highway (Portland Road) which is 161.4 feet South 1°24' West and 523.00 feet South 83°40' East 173.00 feet South 34°30' West from the Southwest corner of the Gregson's Addition to the City of Salem, Marion County, Oregon; thence North 34°30' East, along the East line of Pacific Highway, 173.00 feet to an iron pipe on the North line of the tract conveyed to Harrison Doe by deed recorded in Volume 95, at page 173 of Deed Records; thence South 23°42' East 161.2 feet to the Westerly boundary line of the Southern Pacific Railroad right of way; thence South 22°15' West, along said right of way, 89.00 feet; thence Westerly 154.00 feet, more or less, to the place of beginning.