

RESOLUTION NO. 2501

A RESOLUTION OF THE CITY OF SALISBURY AUTHORIZING THE MAYOR OR THE CITY ADMINISTRATOR TO SIGN THE DONATION AGREEMENT TO ACCEPT THE DONATION OF THE REAL PROPERTY LOCATED AT 806 NORTH DIVISION STREET, SALISBURY, MARYLAND 21801, FROM WELLS FARGO BANK, N.A.

WHEREAS, the City of Salisbury is interested in obtaining foreclosed and/or abandoned properties which create a blighting influence on our neighborhoods, so that said properties may be either rehabilitated for resale, or demolished to make way for new construction; and

WHEREAS, Wells Fargo Bank, N.A., acquired the property located at 806 North Division Street, Salisbury, Maryland 21801, through the process of foreclosure; and

WHEREAS, Wells Fargo Bank, N.A. has offered to donate the property at 806 North Division Street to the City of Salisbury; and

WHEREAS, Wells Fargo Bank has agreed to pay all closing costs associated with the transfer of the property, including but not limited to attorney's fees, agents fees, and recording costs; and

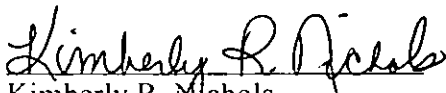
WHEREAS, Wells Fargo Bank has agreed to pay all utility bills that are due and all taxes that are due on the property up to the date of closing; and

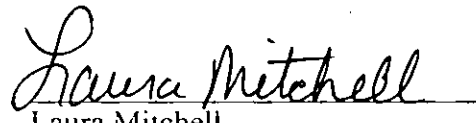
WHEREAS, Wells Fargo Bank has also agreed to provide a \$10,000 Seller Concession to the City of Salisbury upon closing.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Salisbury, Maryland does hereby authorize the Mayor or the City Administrator to sign the Donation Agreement to accept the donation of the real property located at 806 North Division Street, Salisbury, Maryland 21801 from Wells Fargo Bank, N.A.

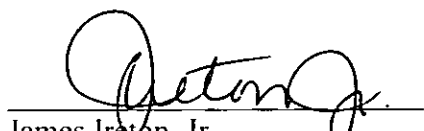
THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting of the Council of the City of Salisbury held on this 11th day of May, 2015 and is to become effective immediately upon adoption.

ATTEST:


Kimberly R. Nichols
CITY CLERK


Laura Mitchell
VICE PRESIDENT, City Council

APPROVED by me this 13th day of May, 2015


James Irton, Jr.
MAYOR, City of Salisbury

Office of Community Development

MEMO

To: Tom Stevenson

From: Deborah Stam

**Subject: Resolution to Accept the Donation of the Real Property
Located at 806 North Division Street, Salisbury, Maryland
21801 from Wells Fargo Bank, N.A.**

Date: April 9, 2015

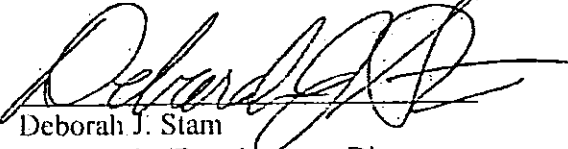
As you are aware, a few months ago we were contacted by one of the Donation Asset Managers for Wells Fargo, Premiere Asset Services. These Asset Managers coordinate the donation of Wells Fargo Bank REO properties to non-profit organizations and municipalities.

We were advised that Wells Fargo Bank had recently obtained the property located at 806 North Division Street, Salisbury, through foreclosure, and that this property was eligible for donation. We were further advised that if we were interested in this opportunity, Wells Fargo Bank would provide marketable title on the donated property, and they would pay all the closing costs including the title insurance policy, taxes through the day of closing, and any utilities due through the day of closing.

After some discussion, and a site visit to view the exterior of the house, Wells Fargo also offered to provide a \$10,000 Seller Concession to the City of Salisbury upon closing. These funds can be used as we see fit – either to maintain the property until it can be rehabilitated for resale, or, if it is determined that the property is not worth rehabilitating, we can use these funds to demolish the unit and clear the lot for new construction.

Attached is a copy of the Donation Agreement sent to us from Wells Fargo Bank, N.A. for 806 North Division Street. This agreement has been reviewed and approved by the City Attorney.

Also attached is a Resolution accepting the donation of the property from Wells Fargo Bank. Please forward these documents to the City Council so that this item may be placed on their agenda for the work session meeting on April 20th. If the Council approves this item to move forward at the work session, we would like to schedule passage of the Resolution for the legislative meeting on May 11, 2015.


Deborah J. Stam
Community Development Director

Attachments

CC: Julia Glanz
Ginny Hussey
Susan Phillips

DONATION AGREEMENT

This is a Donation Agreement (the "Donation Agreement") for certain real property located at 806 N DIVISION ST, SALISBURY, MD 21801 ("Property"), dated and effective as of this 10TH day of MARCH, 2015, between Wells Fargo Bank, N.A., a national banking association ("Donor") and CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, a ("Donee").

RECITALS

This Donation Agreement is made and entered into on the basis of the following facts and understandings of the parties hereto:

- A. Donor acquired the Property identified on Exhibit A through the foreclosure process.
- B. Donor did not originally construct any of the improvements forming part of the Property. Donor has not occupied the Property for its own use.
- C. Due to Donor's lack of familiarity with the Property, Donor is unwilling to make any representations or warranties whatsoever regarding the Property and Donor is only willing to grant Donee the Property on an "as is, where is" and "with all faults" basis.
- D. Donee has been given a full and complete opportunity to conduct its own investigation as to any matter, fact or issue that might influence Donee's decision to accept the Property from Donor. Accordingly, Donee is willing to accept the Property from Donor without any representations or warranties whatsoever regarding the Property and on an "as is, where is" and "with all faults" basis.

AGREEMENT

1. DONATION

- 1.1 Closing Costs. Donor shall pay all costs associated with the transfer of the Property, including but not limited to attorney's fees, agents fees and recording costs ("Closing Costs").
- 1.2 Transfer. Donor agrees to donate the Property to Donee and Donee agrees to accept the Property from Donor on the terms and conditions set forth herein. In consideration of Donor's transfer of the Property to Donee, Donee shall perform all of Donee's obligations hereunder including but not limited to the release set forth in Section 2.2 of this Donation Agreement.
- 1.3 Title. Title shall be transferred on the Closing Date via a quit claim deed or its equivalent.

- 1.4 Further Assurances. Donee and Donor agree to execute all instruments and documents and to take all actions reasonably necessary and appropriate to consummate the transfer and donation of the Property and shall use their best efforts to close in a timely manner.

2. ACKNOWLEDGMENTS, AND RELEASE.

- 2.1 DONEE'S ACKNOWLEDGMENTS. DONEE ACKNOWLEDGES THAT DONEE IS ACCEPTING THE PROPERTY SOLELY IN RELIANCE ON DONEE'S OWN INVESTIGATION, AND THE PROPERTY IS IN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE. DONEE EXPRESSLY ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENT OF DONOR HEREIN, AND EXCEPT AS OTHERWISE SPECIFIED HEREIN, DONOR MAKES AND HAS MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, WITH RESPECT TO THE PROPERTY OR ANY MATTER RELATED THERETO, OR (WITHOUT LIMITATION) TO ANY OF THE FOLLOWING MATTERS:

- (a) Soils, Etc. Soils, seismic, hydrological, geological and topographical conditions and configurations.
- (b) Artifacts. Archeological, prehistoric and historic artifacts, remains and relics.
- (c) Endangered Species. Endangered plant, animal and insect species.
- (d) Hazardous Materials. Hazardous Materials and other environmental conditions, including without limitation, lead-based paint, asbestos and mold.
- (e) Physical Defects. Physical and mechanical defects in or on any Property, including without limitation, the plumbing, heating, air conditioning and electrical systems and the roof, floor, ceilings, walls and other internal structural components of any buildings or improvements.
- (f) Land and Floor Area. The area of the land and the square footage contained in any buildings or improvements.
- (g) Utilities, Schools, Etc. Availability of adequate utilities, water, schools, public access, and fire and police protection.
- (h) Assessment Districts. The status and nature of any assessment districts and the amount of any assessment liability.

- (i) Planning and Zoning. Present, past or future conformity of any Property with planning, building, zoning, subdivision and development statutes, ordinances, regulations and permits, the general plan and the specific plan.
- (j) Development Fees. The character and amount of any fee, charge or other consideration which must be paid by Donee to develop any Property.
- (k) Title. The condition of title to any Property, including but not limited to the existence of any easement, license or encroachment whether or not a matter of public record, and whether or not visible upon inspection of such Property.
- (l) Taxes. The status of any general or special real property taxes or assessments or personal property taxes or any other taxes and assessments applicable to the Property.
- (m) Owner's Association. The financial condition of any owner's association, including, without limitation, the adequacy of any reserves held by any owner's association.
- (n) Other Matters. Any other matter relating to any Property or to the development or operation of any Property, including, but not limited to, value, feasibility, cost, governmental permissions or entitlements, marketability and investment return.

2.2 RELEASE.

- (a) **RELEASE. DONEE FULLY RELEASES AND DISCHARGES DONOR FROM AND RELINQUISHES ALL RIGHTS, CLAIMS AND ACTIONS THAT DONEE MAY HAVE OR ACQUIRE AGAINST DONOR WHICH ARISE OUT OF OR ARE IN ANY WAY CONNECTED WITH THE CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION (A) ANY MATTER SET FORTH IN SECTION 2.1 ABOVE, (B) THE PRESENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT ANY PROPERTY (INCLUDING BUT NOT LIMITED TO ANY UNDISCOVERED HAZARDOUS MATERIALS LOCATED BENEATH THE SURFACE OF THE PROPERTY) AND (C) VIOLATIONS OF ANY HAZARDOUS MATERIALS LAWS PERTAINING TO THE PROPERTY OR THE ACTIVITIES THEREON. THIS RELEASE APPLIES TO ALL DESCRIBED RIGHTS, CLAIMS AND ACTIONS, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, PRESENT OR FUTURE.**

(b) **MEANING.** FOR PURPOSES OF THIS SECTION 2.2, ALL REFERENCES TO "DONOR" SHALL INCLUDE: (A) DONOR'S PARENT, SUBSIDIARY AND AFFILIATE CORPORATIONS, (B) DONOR'S DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES AND AGENTS, AND (C) THE HEIRS, SUCCESSORS, PERSONAL REPRESENTATIVES AND ASSIGNS OF DONOR'S DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES AND AGENTS.

(c) **EFFECTIVENESS.** THE PROVISIONS OF THIS SECTION 2 SHALL BE EFFECTIVE AS OF THE CLOSING DATE AND SHALL SURVIVE THE CLOSING DATE OR TERMINATION OF THIS DONATION AGREEMENT.

3. **CLOSING DATE.** IF THE CLOSING DATE DOES NOT TIMELY OCCUR DUE TO THE DEFAULT OF DONEE, (A) DONEE SHALL HAVE NO FURTHER RIGHT TO RECEIVE THE PROPERTY AND (B) DONOR SHALL BE FREE TO DISPOSE OF THE PROPERTY IN ANY WAY IT SEES FIT.

4. **GENERAL PROVISIONS**

4.1 **Successors and Assigns.** This Donation Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. Notwithstanding the foregoing, Donee may not transfer, assign or encumber Donee's rights under this Donation Agreement without Donor's prior written approval.

4.2 **Entire Agreement.** This Donation Agreement contains the entire agreement between the parties concerning the Donation and sale of the property, and supersedes all prior written or oral agreements between the parties to this Donation Agreement. No addition to or modification of any term or provision shall be effective unless in writing, signed by both Donor and Donee.

4.3 **Time of Essence.** Donor and Donee hereby acknowledge and agree that time is strictly of the essence with respect to each term and condition of this Donation Agreement and that the failure to timely perform any of the terms and conditions by either party shall constitute a breach and default under this Donation Agreement by the party failing to so perform.

4.4 **Partial Invalidity.** If any portion of this Donation Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed from this Donation Agreement and the remaining parts shall remain in full force as fully as though the invalid, illegal or unenforceable portion had never been part of this Donation Agreement.

- 4.5 **Governing Law.** The parties intend and agree that this Donation Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located.
- 4.6 **No Third Parties Benefits.** No person other than Donor and Donee, and their permitted successors and assigns, shall have any right of action under this Donation Agreement.
- 4.7 **Waivers.** No waiver by either party of any provision shall be deemed a waiver of any other provision or of any subsequent breach by either party of the same or any other provision.
- 4.8 **Captions.** The captions and Section numbers of this Donation Agreement are for convenience and in no way define or limit the scope or intent of the Sections of this Donation Agreement.
- 4.9 **Counterparts.** To facilitate execution, this Donation Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this instrument to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.
- 4.10 **No Presumption.** All the parties hereto and their attorneys have had full opportunity to review and participate in the drafting of the final form of this Donation Agreement and all documents attached as exhibits. Accordingly, such documents shall be construed without regard to any presumption or other rule of construction whereby any ambiguities within this Donation Agreement would be construed or interpreted against the party causing the document to be drafted.
- 4.11 **Notices.** Any notices or other communication required or permitted under this Donation Agreement shall be in writing, and shall be (a) personally delivered, or (b) sent by certified or registered United States mail, postage prepaid, return receipt requested, or (c) by overnight delivery by a reputable courier to the address of the party set forth in this Section or (d) telecopied to the Fax number of the party set forth in this Section. Such notice or communication shall be deemed given (i) if sent by personal delivery or by overnight courier, when delivered in person, (ii) if sent by telecopier, when evidence of successful transmission by telecopier has been received by sender or, (iii) in the case of mailed notice, forty-eight (48) hours following deposit in the United States mail. Notice of change of address shall be given by written notice in the manner detailed in this Section.

If to the Donee: **CITY OF SALISBURY, A MUNICIPAL CORPORATION OF
THE STATE OF MARYLAND**

Office of the Mayor, 125 North Division Street
Salisbury, Maryland 21801

If to the Donor:

Wells Fargo Bank, N.A.
1 Home Campus
Des Moines, Iowa 50328-0001
Attention: Amy Schnell, MAC# X2301-049

With a copy to:

Wells Fargo Bank, N.A.
800 Walnut Street
Des Moines, Iowa 50309
Attention: Assistant General Counsel, MAC N0001-11B

- 4.12 **Joint and Several.** If more than one person or entity has executed this Donation Agreement as Donee, the obligations of all such persons or entities hereunder shall be joint and several.

[Signatures on the next page]

DONEE:

CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND

Signature: _____

Print Name: James Ireton, Jr.

Title: Mayor

DONOR:

WELLS FARGO BANK, N.A.

Signature: _____

Print Name: _____

Title: _____

PREMIERE AssetSM Services



DONATION FILE

Your company contact will receive the closing instructions via email. Below is a summary of information pertaining to this transaction:

806 N DIVISION ST
SALISBURY, MD 21801

PAS #: 1279004079A

DONEE:

CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, Debbie Stam, 410.334.3031, dstam@ci.salisbury.md.us

FEES:

Agent Commission: \$1,500.00
iAgent Reimbursement: \$115.00
Seller Concession: \$10,000.00

Close Date: 7.1.2015

DONEE CLOSING AGENT/ATTY:

- The Seller will pay all closing costs for the buyer upon using the seller selected title company.
- The Seller will be providing title insurance.

PAS CLOSING AGENT/ATTY:

SERVICELINK, (855) 264-4930, SL-REOWFCntr@servicelinkfnf.com

PAS Listing Agent :

REMAX Crossroads, Norman Knight, (443) 736-3373, normanknight@remax.net

PAS CLOSER:

Ashley.Pannkuk@wellsfargo.com

ASSET MANAGER:

Brianna.N.Snook@wellsfargo.com

PAS PRE-CLOSER:

Kylie.Gudenkauf@wellsfargo.com

EFFECTIVE DATE: The date on which this addendum is signed by both the Donee and Donor shall be the effective date of the agreement.

PROPERTY ADDRESS: 806 N. DIVISION ST, SALISBURY, MD 21801

DONEE: CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND

DONOR: OWNER

Other: DONEE TO RECEIVE \$10,000.00 SELLER CONCESSION FROM DONOR UPON CLOSING.

DONOR:

OWNER

Signature: Brianna Snook

Print Name: Brianna Snook

Title: Asset Manager

Date: 5-22-15

DONEE:

CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND

Signature: 

Print Name: M. Thomas Stevenson, Jr.

Title: City Administrator

Date: 5/22/2015

DONATION AGREEMENT

This Donation Agreement (the "Agreement") for certain real property located at 806 North DIVISION ST, SALISBURY, MD 21801 ("Property"), is effective upon the Effective Date (defined below), between Owner, whose address is 8480 Stagecoach Cir, Frederick, MD 21701 ("Donor") and CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND, whose address is 125 North Division Street, Salisbury, MD 21801 ("Donee"). It is agreed that upon the terms and conditions set forth in this Agreement the Donor shall donate and convey all of its rights and interests in, and the Donee shall accept and be the successor to all such rights and interests in, the real property identified and described herein. Donor and Donee may each be referred to as a "Party" and collectively as the "Parties".

RECITALS

In consideration of the mutual covenants of the Parties contained in this Agreement, Donor does grant to Donee title to the Property and Donee accepts from the Donor title to the Property under the following terms and conditions:

- A. Donor acquired the Property identified on Exhibit A through the foreclosure process or by a deed in lieu of foreclosure;
- B. Donor did not originally construct any of the improvements forming part of the Property;
- C. Donor has not occupied the Property for its own use;
- D. Due to Donor's lack of familiarity with the Property, Donor is unwilling to make any representations or warranties whatsoever regarding the Property and Donor is only willing to grant Donee the Property on an "as is, where is" and "with all faults" basis; and
- E. Donee has been given a full and complete opportunity to conduct its own investigation as to any matter, fact or issue that might influence Donee's decision to accept the Property from Donor. Accordingly, Donee is willing to accept the Property from Donor without any representations or warranties whatsoever regarding the Property and on an "as is, where is" and "with all faults" basis.

AGREEMENT

1. DONATION.

- 1.1 **Effective Date.** The date this Agreement is signed by both Parties shall be (the "Effective Date") of the Agreement.
- 1.2 **Purchase Price.** The purchase price for the Property shall be ONE and 00/100 Dollars (\$1.00) (the "Purchase Price"). However, the amount payable by the Donee to Donor for the purposes of this transaction as the consideration to be paid shall be ZERO and 00/100 Dollars (\$0.00) (the "Total Adjusted Sales Price"). The term Total Adjusted Sales Price has been determined by the Donor and

Donee taking certain agreed upon sums and applying such sums to the following formula: (a) the Purchase Price less (b) Donor adjustments of -\$1.00.

- 1.3 **Closing.** Donee may choose the Donor's Preferred Title Company (defined below) or any other third party.
- (a) Upon Donee's acceptance of the Donor's offer, Donor shall provide to Donee a suggested company ("Donor's Preferred Title Company") to act as the closing agent and title company.
 - (b) If Donee selects Donor's Preferred Title Company to act as the closing agent and the title company, then Donor shall pay all costs associated with the conveyance of title to the Property, including attorneys' fees and costs, agents' fees, documentary stamp taxes and recording costs ("Closing Costs").
 - (c) If Donee selects a third party other than Donor's Preferred Title Company to act as the closing agent or the title company, then Donor shall pay Closing Costs in the amount of the lesser of (a) \$2,500.00 or (b) the actual amount of Closing Costs.
 - (d) The Donee will notify the Donor of the title company and closing agent Donee has selected by completing the selection form attached hereto as Exhibit "B".
- 1.4 **Transfer.** Donor agrees to donate the Property to Donee and Donee agrees to accept the Property from Donor on the terms and conditions set forth herein. In consideration of Donor's transfer of the Property to Donee, Donee shall perform all of Donee's obligations hereunder including but not limited to the release set forth in Section 2.2 of this Agreement.
- 1.5 **Deed.** Title shall be transferred on the Closing Date via a Deed (which Deed may be known as a Special Warranty, Limited Warranty, Quit Claim or Bargain and Sale Deed). Any reference to the term "Deed" herein shall be construed to refer to such form of Deed. Donor shall be responsible for recording the Deed following the Closing Date. The Deed to be delivered on the Closing Date shall be a Deed in which the Grantor therein grants and conveys to the Grantee therein only that title to, or interest and rights in, the Property granted therein that the Grantor may have at the time of the grant, and shall contain no warranty, guaranty or indemnification of any kind, express or implied.
- 1.6 **Title and Examination.** Within five (5) days from the Effective Date, Donor will order a title commitment for a: (a) title insurance policy (the "Title Commitment"), or (b) a title report or opinion of title (the "Title Opinion") and provide a copy to Donee upon request or on the Closing Date. Donor will provide marketable title to the Property, which shall be acceptable to Donee in its absolute discretion and as a condition and contingency to Donee's obligation to accept the Property under this Agreement.

- 1.7 **Taxes and Utilities.** The Parties agree that the Donor will only be responsible for the following expenses due as of the Closing Date: municipal water and sewer charges, utility charges, real estate taxes and assessments, common area charges, condominium or planned unit development or similar community assessments, co-operative fees, maintenance fees, and rents, if any. The Property taxes will be prorated based on an estimate of actual taxes from the previous year on the Property. All prorations will be based upon a 30-day month and all such prorations shall be final. Donor will not be responsible for any amounts due, paid or to be paid after closing, including but not limited to, any taxes, penalties or interest assessed or due as a result of retroactive, postponed or additional taxes resulting from any change in use of, or construction on, or improvement to the Property, or an adjustment in the appraised value of the Property.
- 1.8 **Risk of Loss.** In the event of fire, destruction, or other casualty loss to the Property after the Effective Date, and prior to the Closing Date, (a) Donor may, at its sole discretion, repair or restore the Property, or (b) either Party may terminate the Agreement. If Donor elects to repair or restore the Property, then Donor may, in its sole discretion, limit the amount to be expended. If Donor elects not to repair or restore the Property, Donee shall either (a) acquire the Property in its AS-IS condition at the time of such acquisition, or (b) terminate the Agreement.
- 1.9 **Eminent Domain.** In the event that the Donor's interest in the Property, or any part thereof, shall have been taken by eminent domain, or shall be in the process of being taken on or before the Closing Date, either Party may terminate the Agreement and neither Party shall have any further rights or liabilities hereunder.

2. **ACKNOWLEDGMENTS AND RELEASE.**

- 2.1 **DONEE'S ACKNOWLEDGMENTS.** DONEE ACKNOWLEDGES THAT DONEE IS ACCEPTING THE PROPERTY SOLELY IN RELIANCE ON DONEE'S OWN INVESTIGATION, AND THE PROPERTY IS IN "AS IS, WHERE IS" CONDITION WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE. DONEE EXPRESSLY ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENT OF DONOR HEREIN, AND EXCEPT AS OTHERWISE SPECIFIED HEREIN, DONOR MAKES AND HAS MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE, WITH RESPECT TO THE PROPERTY OR ANY MATTER RELATED THERETO, OR (WITHOUT LIMITATION) TO ANY OF THE FOLLOWING MATTERS:
- (a) **Soils, Etc.** Soils, seismic, hydrological, geological and topographical conditions and configurations.
- (b) **Artifacts.** Archeological, prehistoric and historic artifacts, remains and relics.

- (c) Endangered Species. Endangered plant, animal and insect species.
- (d) Hazardous Materials. Hazardous Materials and other environmental conditions, including without limitation, lead-based paint, asbestos and mold.
- (e) Physical Defects. Physical and mechanical defects in or on the Property, including without limitation, the plumbing, heating, air conditioning and electrical systems and the roof, floor, ceilings, walls and other internal structural components of any buildings or improvements.
- (f) Land and Floor Area. The area of the land and the square footage contained in any buildings or improvements.
- (g) Utilities, Schools, Etc. Availability of adequate utilities, water, schools, public access, and fire and police protection.
- (h) Assessment Districts. The status and nature of any assessment districts and the amount of any assessment liability.
- (i) Planning and Zoning. Present, past or future conformity of the Property with planning, building, zoning, subdivision and development statutes, ordinances, regulations and permits, the general plan and the specific plan.
- (j) Development Fees. The character and amount of any fee, charge or other consideration which must be paid by Donee to develop the Property.
- (k) Title. The condition of title to the Property, including but not limited to the existence of any easement, license or encroachment whether or not a matter of public record, and whether or not visible upon inspection of such Property.
- (l) Taxes. The status of any general or special real property taxes or assessments or personal property taxes or any other taxes and assessments applicable to the Property.
- (m) Owner's Association. The financial condition of any owner's association, including, without limitation, the adequacy of any reserves held by any owner's association.
- (n) Other Matters. Any other matter relating to the Property or to the development or operation of the Property, including, but not limited to, value, feasibility, cost, governmental permissions or entitlements, marketability, investment return and compliance of the Property, its operation or use with any laws, rules, ordinances, regulations or codes of any government or other body.

2.2 RELEASE.

- (a) RELEASE. DONEE FULLY RELEASES AND DISCHARGES DONOR FROM AND RELINQUISHES ALL RIGHTS, CLAIMS AND ACTIONS THAT DONEE MAY HAVE OR ACQUIRE AGAINST DONOR WHICH ARISE OUT OF OR ARE IN ANY WAY CONNECTED WITH THE CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION (A) ANY MATTER SET FORTH IN SECTION 2.1 ABOVE, (B) THE PRESENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT ANY PROPERTY (INCLUDING BUT NOT LIMITED TO ANY UNDISCOVERED HAZARDOUS MATERIALS LOCATED BENEATH THE SURFACE OF THE PROPERTY) AND (C) VIOLATIONS OF ANY HAZARDOUS MATERIALS LAWS PERTAINING TO THE PROPERTY OR THE ACTIVITIES THEREON. THIS RELEASE APPLIES TO ALL DESCRIBED RIGHTS, CLAIMS AND ACTIONS, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, PRESENT OR FUTURE.
- (b) MEANING. FOR PURPOSES OF THIS SECTION 2.2, ALL REFERENCES TO "DONOR" SHALL INCLUDE: (A) DONOR'S PARENT, SUBSIDIARY AND AFFILIATE CORPORATIONS, (B) DONOR'S DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES AND AGENTS, AND (C) THE HEIRS, SUCCESSORS, PERSONAL REPRESENTATIVES AND ASSIGNS OF DONOR'S DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES AND AGENTS.
- (c) EFFECTIVENESS. THE PROVISIONS OF THIS SECTION 2 SHALL BE EFFECTIVE AS OF THE CLOSING DATE AND SHALL SURVIVE THE CLOSING DATE OR TERMINATION OF THIS AGREEMENT.

3. TIME IS OF THE ESSENCE; CLOSING DATE.

- 3.1 It is agreed that time is of the essence with respect to all dates specified in this Agreement and any addenda, riders or amendments thereto, meaning that all deadlines are intended to be strict and absolute. The Agreement shall terminate automatically, and without notice, if it is not concluded by the Closing Date, or any agreed extension thereof.
- 3.2 The closing shall take place on or before JULY 1, 2015 (the "Closing Date"), unless the Closing Date is extended in writing signed by Donor and Donee or extended by Donor under the terms of this Agreement. The closing shall be held in the offices of the title company of Donee's choice, Donor's attorney or Donee's attorney, or at a place so designated and approved by Donor, unless otherwise required by

applicable law. If the closing does not occur by the date specified in this Section or in any extension, this Agreement is automatically terminated.

4. **GENERAL PROVISIONS.**

- 4.1 **Entire Agreement.** This Agreement contains the entire agreement between the parties concerning the Donation and sale of the property, and supersedes all prior written or oral agreements between the parties to this Agreement. No addition to or modification of any term or provision shall be effective unless in writing, signed by both Donor and Donee.
- 4.2 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.
- 4.3 **Partial Invalidity.** If any portion of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed from this Agreement and the remaining parts shall remain in full force as fully as though the invalid, illegal or unenforceable portion had never been part of this Agreement.
- 4.4 **Termination.** Prior to the Closing Date, this Agreement may be terminated by Donor at any time for any or no reason by written notice to Donee.
- 4.5 **Governing Law.** The parties intend and agree that this Agreement shall be governed by and construed in accordance with the laws of the state in which the Property is located.
- 4.6 **No Third Parties Benefits.** No person other than Donor and Donee, and their permitted successors and assigns, shall have any right of action under this Agreement.
- 4.7 **Waivers.** No waiver by either party of any provision shall be deemed a waiver of any other provision or of any subsequent breach by either Party of the same or any other provision.
- 4.8 **Captions.** The captions and Section numbers of this Agreement are for convenience and in no way define or limit the scope or intent of such Sections of this Agreement.
- 4.9 **Counterparts.** To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this instrument to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing

the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

- 4.10 **No Presumption**. All the parties hereto and their attorneys have had full opportunity to review and participate in the drafting of the final form of this Agreement and all documents attached as exhibits. Accordingly, such documents shall be construed without regard to any presumption or other rule of construction whereby any ambiguities within this Agreement would be construed or interpreted against the party causing the document to be drafted.
- 4.11 **Notices**. Any notices or other communication required or permitted under this Agreement shall be in writing, and shall be personally delivered, or sent by certified or registered United States mail, postage prepaid, return receipt requested, or by overnight delivery by a reputable courier to the address of the party set forth in this Section, or sent by fax to the Fax number of the party set forth in this Section, or sent by e-mail to the party set for in this Section. Such notice or communication shall be deemed given if sent by personal delivery or by overnight courier, when delivered in person, if sent by fax, when evidence of successful transmission by telecopier has been received by sender or, in the case of mailed notice, forty-eight (48) hours following deposit in the United States mail. Notice of change of address shall be given by written notice in the manner detailed in this Section.

If to the Donee: **CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND**

Address:
125 North Division Street, Room 104
Salisbury, Maryland 21801

If to the Donor: Owner


1 Home Campus
Des Moines, Iowa 50328-0001
Attention: **Kylie Gudenkauf**, MAC# X2301-049
Fax Number: 855-791-9075
Kylie.Gudenkauf@wellsfargo.com

- 4.12 **Joint and Several**. If more than one person or entity has executed this Agreement as Donee, the obligations of all such persons or entities hereunder shall be joint and several.

[Signatures on the next page]

DONEE:

CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND

Signature: 

Print Name: M. Thomas Stevenson, Jr.

Title: City Administrator

Date: 5/22/2015

DONOR:

OWNER

Signature: BRIANNA SNOOK

Print Name: Brianna Snook

Title: Asset Manager

Date: 5-22-15

EXHIBIT "A"

PROPERTY ADDRESS:

806 N DIVISION ST
SALISBURY, MD 21801

LEGAL DESCRIPTION:

ALL THAT LOT OR PARCEL OF LAND SITUATE AND LYING IN THE CITY OF SALISBURY, SALISBURY ELECTION DISTRICT, WICOMICO COUNTY, STATE OF MARYLAND, ON THE WESTERLY SIDE OF AND BINDING UPON NORTH DIVISION STREET AND BEGINNING FOR THE SAME AT A POINT ON THE WESTERLY SIDE OF SAID NORTH DIVISION STREET A DISTANCE OF 79 FEET SOUTH 44 DEGREES 35 MINUTES WEST FROM THE INTERSECTION OF THE WESTERLY LINE OF SAID NORTH DIVISION STREET WITH THE SOUTHERLY LINE OF NEW YORK AVENUE,
THENCE

(1) BY AND WITH THE LAND NOW OR FORMERLY OF BENJAMIN TURNER, NORTH 45 DEGREES 30 MINUTES

WEST A DISTANCE OF 133.6 FEET TO A CEMENT POST SETTLED IN THE GROUND; THENCE

(2) SOUTH 44 DEGREES 10 MINUTES WEST, A DISTANCE OF 45 FEET TO A CEMENT POST; THENCE

(3) BY AND WITH THE LAND NOW OR FORMERLY OF ANNI

(4) E MORGAN, SOUTH 45 DEGREES 05 MINUTES EAST, A DISTANCE OF 133.15 FEET TO THE WESTERLY SIDE OF

SAID NORTH DIVISION STREET AT A CEMENT POST; THENCE BY AND WITH THE SAID NORTH DIVISION

STREET, NORTH 44 DEGREES 35 MINUTES EAST, A DISTANCE OF 46 FEET TO THE PLACE OF BEGINNING;

BEING SHOWN AND DESIGNATED ON PLAT ENTITLED CLEM F. AND MARION C. WILSON, MADE BY RICHARD W.

COOPER, DATED SEPTEMBER 24, 1952, AND RECORDED AMONG THE LAND RECORDS FOR WICOMICO

COUNTY, MARYLAND, IN LIBER J.W.T.S. NO. 333, FOLIO 35.

TAX PARCEL NO:

09-039317

EXHIBIT "B"
Donee's Closing Agent

Please select **ONE** of the following options for closing:

DONEE: CITY OF SALISBURY, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND

Donee selects Donor's Preferred Title Company to act as the closing agent and the Title Company.

If the Donee chooses not to use the Donor's Preferred Title Company to act as the closing agent and the Title Company, then the following section will need to be completed. Please note this box **MUST** be selected to qualify for the up to \$2,500 Donee closing credit.

Please provide contact information for Donee's chosen Title Company:

Company:

Company Mailing Address:

Contact Name:

Phone:

Email:
