



**Mayor**  
Gary L. Peterson  
**Councilmembers**  
Robert A. Williams  
Bruce Nawrocki  
Donna Schmitt  
John Murzyn, Jr.  
**City Manager**  
Walter R. Fehst

**City of Columbia Heights**

590 40<sup>th</sup> Avenue NE, Columbia Heights, MN 55421-3878 (763) 706-3600 TDD (763) 706-3692

Visit our website at: [www.columbiaheightsmn.gov](http://www.columbiaheightsmn.gov)

The following is the agenda for the regular meeting of the City Council to be held at **7:00 PM on Monday, July 11, 2016** in the City Council Chambers, City Hall, 590 40th Avenue N.E., Columbia Heights, Minnesota.

The City of Columbia Heights does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its services, programs, or activities. Upon request, accommodation will be provided to allow individuals with disabilities to participate in all City of Columbia Heights' services, programs, and activities. Auxiliary aids for disabled persons are available upon request when the request is made at least 96 hours in advance. Please call the City Clerk at 763-706-3611, to make arrangements. (TDD/706-3692 for deaf or hearing impaired only.)

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. INVOCATION-** Invocation provided by Dan Thompson, Heights Church

**4. PLEDGE OF ALLEGIANCE**

**5. ADDITIONS/DELETIONS TO MEETING AGENDA**

(The Council, upon majority vote of its members, may make additions and deletions to the agenda. These may be items brought to the attention of the Council under the Citizen Forum or items submitted after the agenda preparation deadline.)

**6. PROCLAMATIONS, PRESENTATIONS, RECOGNITION, ANNOUNCEMENTS, GUESTS**

- A. Recognition of Nathan Smoka: 2016 Sister Cities Showcase of Young Artist winner
- B. Introduction of new library staff member, Nick Olberding

**7. CONSENT AGENDA**

(These items are considered to be routine by the City Council and will be enacted as part of the Consent Agenda by one motion. Items removed from consent agenda approval will be taken up as the next order of business.)

**A. Approve Minutes of the City Council**

MOTION: Move to approve the minutes of the City Council meeting of June 27, 2016

pg 4

**B. Accept Board and Commission Meeting Minutes**

MOTION: Move to accept the minutes of the Planning & Zoning meeting of April 6, 2016

pg 13

2016

**C. Consideration of Resolution 2016-60 authorizing, approving, and adopting an Amended and Restated Program for a Multifamily Housing Development pursuant to MN Statutes, Chapter 462** pg 20

MOTION: Move to waive the reading of Resolution 2016-60, there being ample copies available to the public.

MOTION: Move to adopt City of Columbia Heights, Minnesota, Resolution 2016-60, being a resolution authorizing, approving, and adopting an amended and restated program for a multifamily housing development pursuant to Minnesota Statutes, Chapter 462.

**D. Recreation Seasonal Wage Adjustment** pg 28

MOTION: Move to waive the reading of Resolution 2016-61, there being ample copies available to the public

MOTION: Move to adopt Resolution No. 2016-61, being a resolution setting seasonal wages for recreation seasonal staff effective August 1, 2016

**E. Estoppel Amendment to Purchase Agreements for Solar Power at Municipal Service Center, Public Safety and Library** pg 31

MOTION: Move to approve the Estoppel Amendment to the Solar Power Purchase Agreement dated November 17, 2015 with New Energy Equity for the Municipal Service Center, Public Safety and Library

**F. Ratification of the Development Contract for Plat of Huset Park Senior Living** pg 37

MOTION: Move to waive the reading of Resolution No. 2016-62, there being ample copies available to the public.

MOTION: Move to adopt Resolution 2016-62, a resolution ratifying approval of a revised Development Contract for Plat of Huset Park Senior Living, Anoka County MN, between the City of Columbia Heights and Columbia Heights Leased Housing Associates I, LLLP.

**G. First Amendment to Second Amended and Restated Contract for Private Redevelopment** pg 65

MOTION: Move to waive the reading of Resolution No. 2016-63, there being ample copies available to the public.

MOTION: Move to adopt Resolution 2016-63, approving a First Amendment to the Second Amended and Restated Contract for Private Redevelopment between the City of Columbia Heights, the Columbia Heights Economic Development Authority, and Columbia Heights Leased Housing Associates I, LLLP

**H. Approve Business License Applications** pg 73

MOTION: Move to approve the items as listed on the business license agenda for July 11, 2016.

**I. Payment of Bills**

MOTION: Move that in accordance with Minnesota Statute 412.271, subd. 8, the City Council has received the list of claims paid covering check number 161857 through 162032 in the amount of \$1,587,848.45. pg 75

MOTION: Move to approve the Consent Agenda items.

**8. PUBLIC HEARINGS**

**9. ITEMS FOR CONSIDERATION**

**A. Other Ordinances and Resolutions**

**a. Approve Settlement Agreement and Release, and authorize payment regarding a PERA Disability Claim**

pg 83

MOTION: Move to approve the Settlement Agreement and Release; and authorize payment in the amount of \$37,500 for all past and future health insurance coverage and benefits in accordance with Minn. Stat. §299A.465 for a former Columbia Heights employee.

**b. Adopt Ordinance No. 1628 being an Ordinance amending Chapter 8, Article IV of City Code.**

pg 84

MOTION: Move to waive the reading of Ordinance No. 1628, there being ample copies available to the public.

MOTION: Move to adopt Ordinance No. 1628 being an Ordinance amending Chapter 8, Article IV of City Code of 2005 relating to the adoption of the Minnesota State Fire Code.

**c. Second Reading of Ordinance No. 1629 Amending Chapter 10, Sections 95, 96, 98 & 99 of the City's Charter pertaining to Franchises**

pg 87

MOTION: Move to waive the reading of the Ordinance No. 1629, there being ample copies available to the public.

MOTION: Move to adopt Ordinance No.1629, being an ordinance amending Chapter 10, Sections 95, 96, 98 & 99 of the City's Charter pertaining to Franchises

**d. Second Reading of Ordinance No. 1630 Amending Chapter 4, Section 28a pertaining to Candidate Filing Fees**

pg 89

MOTION: Move to waive the reading of the Ordinance No. 1630, there being ample copies available to the public.

MOTION: Move to adopt Ordinance No.1630, being an ordinance amending Chapter 4, Section 28a pertaining to Candidate Filing Fees.

**B. Bid Considerations**

**C. New Business and Reports**

**10. ADMINISTRATIVE REPORTS**

Report of the City Manager  
Report of the City Attorney

**11. CITIZENS FORUM**

At this time, citizens have an opportunity to discuss with the Council items not on the regular agenda. Citizens are requested to limit their comments to five minutes. Anyone who would like to speak shall state his/her name and address for the record.

**12. ADJOURNMENT**

**OFFICIAL PROCEEDINGS  
CITY OF COLUMBIA HEIGHTS  
CITY COUNCIL MEETING  
JUNE 27, 2016**

The following are the minutes for the regular meeting of the City Council held at 7:00 PM on Monday June 13, 2016 in the City Council Chambers, City Hall, 590 40th Avenue N.E., Columbia Heights, Minnesota

**1. CALL TO ORDER**

Mayor Peterson called the meeting to order at 7:03 p.m.

**2. ROLL CALL**

Present: Mayor Peterson, Councilmembers Nawrocki, Williams, Schmitt and Murzyn, Jr.

Also Present: Walt Fehst; City Manager, Jim Hoeft; City Attorney, Kelli Bourgeois; Human Resource Director/Assistant to the City Manager; John Larkin; Assistant Fire Chief, Joe Kloiber; Finance Director, Elizabeth Holmbeck; City Planner and Katie Bruno; City Clerk/Council Secretary

**3. INVOCATION**

Invocation provided by Bob Lyndes, Crest View Senior Communities

**4. PLEDGE OF ALLEGIANCE**

**5. ADDITIONS/DELETIONS TO MEETING AGENDA**

**(The Council, upon majority vote of its members, may make additions and deletions to the agenda. These may be items brought to the attention of the Council under the Citizen Forum or items submitted after the agenda preparation deadline.)**

Mayor Peterson announced item 8A is being removed; the property was brought into compliance.

**6. PROCLAMATIONS, PRESENTATIONS, RECOGNITION, ANNOUNCEMENTS, GUESTS**

**A. Presentation of All America City Award**

City Manager Walt Fehst reported that 38-39 delegates attended the event in Denver, CO June 16-20, 2016. Fehst reported all twenty cities nominated made informative presentations. The City's financial obligation for the trip is approximately \$7,900 for the roundtrip bus service, and \$2,300 in registration fees for the delegation. Copies of the application were distributed to the council for review.

The following representatives from the delegation were present and spoke highly of the experience; Gary Peterson, Walt Fehst, Kelli Bourgeois, Scott Nadeau, John Larkin, Liz Bray, Dave Larson; Columbia Heights Resident, Degha Shabbeleh; Columbia Heights Resident, Dawn Hoium; Columbia Heights School District, John Kulick; High School Principal, Kristen Stuenkel; Columbia Heights School District, Kim Berling; Columbia Heights School District, Victoria Campoverde; Columbia Heights Royalty, Justin Larkin; Columbia Heights High School Student. The general consensus was that it was a very positive experience for everyone involved, and they intend to continue their efforts.

Sal Di Leo congratulated the City. Frost Simula asked the council if they have any planned initiatives resulting from the conference. City Manager Walt Fehst noted the group will get together and review the summaries from the conference. Police Chief Scott Nadeau stated he participated in a variety of discussions including racism discussions, implicit bias, and school attendance. Other ideas included mobile health centers. Connie Buesgens congratulated the City Council and suggested the City create a program to build stronger communities, and suggested sharing the findings from the conference with the public. Mayor Peterson invited the community to find a group to volunteer with, noting it is very rewarding.

Councilmember Schmitt encouraged discussions to continue in the community, noting National Night Out would be a good opportunity for residents to have conversations with City Leaders.

## **7. CONSENT AGENDA**

(These items are considered to be routine by the City Council and will be enacted as part of the Consent Agenda by one motion. Items removed from consent agenda approval will be taken up as the next order of business.)

### **A. Approve Minutes of the City Council**

MOTION: Move to approve the minutes of the City Council meeting of June 13, 2016

### **B. Resolution designating Election Judges for the 2016 Primary and General Elections**

Councilmember Nawrocki questioned how the number of judges compares with the 2014 Election. City Clerk, Katie Bruno explained the number of judges is close to the number in the previous election cycle, noting some judges are working shorter shifts on Election Day.

MOTION: Move to waive the reading of Resolution No. 2016-59, there being ample copies available to the public.

MOTION: Move to adopt Resolution No. 2016-59, being a resolution designating election judges and salaries for the 2016 Primary and General Elections.

### **C. Approval of Rental Housing Applications**

MOTION: Move to approve the items listed for rental housing license applications for June 27, 2016, in that they have met the requirements of the Property Maintenance Code.

### **D. Approve Business License Applications**

MOTION: Move to approve the items as listed on the business license agenda for June 27, 2016

### **E. Payment of Bills**

MOTION: Move that in accordance with Minnesota Statute 412.271, subd. 8, the City Council has received the list of claims paid covering check number 161645 through 161856 in the amount of \$ 841,968.93.

*Motion by Councilmember Nawrocki, seconded by Councilmember Williams to approve the consent agenda. All Ayes, Motion Carried.*

## **8. PUBLIC HEARINGS**

**A. Revocation of the license to operate a rental unit within the City of Columbia Heights is requested against rental properties at 4515 Fillmore Street NE (Resolution No. 2016-55) for failure to meet the requirements of the Property Maintenance Codes.** (Removed, property owner has made required corrections.)

### **B. Adopt Resolution for Emergency Abatement for property at 4237 Quincy St NE.**

John Larkin, Assistant Fire Chief explained the property was uninhabitable, as the entrance could not be secured.

*Motion by Councilmember Nawrocki, seconded by Councilmember Williams to close the public hearing and to waive the reading of Resolution Number 2016-49, being ample copies available to the public. All Ayes, Motion Carried.*

*Motion by Councilmember Nawrocki, seconded by Councilmember Williams to Adopt Resolution Number 2016-49, being declarations of nuisance and emergency abatement of violations within the City Council of the City of Columbia Heights regarding property 4237 Quincy Street N.E. All Ayes, Motion Carried.*

## **9. ITEMS FOR CONSIDERATION**

### **A. Other Ordinances and Resolutions**

#### **a. Second Reading of Ordinance 1631, Conveyance of Certain Real Property to the EDA**

*Motion by Councilmember Williams, seconded by Councilmember Murzyn, Jr. to waive the reading of Ordinance No. 1631, there being ample copies available to the public. All Ayes, Motion Carried*

*Motion by Councilmember Williams, seconded by Councilmember Murzyn, Jr. to adopt Ordinance No. 1631, being an ordinance authorizing the conveyance of certain real property located at 4011 5th Street. All Ayes, Motion Carried.*

#### **b. First Reading of Ordinance No. 1629 amending Chapter 10, Sections 95, 96, 98 & 99 of the City's Charter Pertaining to Franchises; and Ordinance No. 1630 amending Chapter 4, Section 28a pertaining to Candidate Filing Fees**

City Attorney James Hoeft explained the Charter Commission has been reviewing the Charter, looking for language that may be outdated, or no longer applicable. The franchise Attorney, Mike Bradley met with the Charter Commission and discussed the proposed amendments.

*Motion by Councilmember Nawrocki, seconded by Councilmember Williams to waive the reading of the Ordinance No. 1629, there being ample copies available to the public. All Ayes, Motion Carried.*

*Motion by Councilmember Nawrocki, seconded by Councilmember Williams to schedule the second reading of Ordinance No.1629, being an ordinance amending Chapter 10, Sections 95, 96, 98 & 99 of the City's Charter pertaining to Franchises for July 11, at approximately 7:00 p.m. in the City Hall Council Chambers. All Ayes, Motion Carried.*

City Attorney James Hoeft reported that filing fees have not been changed since early in the 1980's. The Charter Commission has discussed options, and agreed that an inflationary index adjustment would be appropriate.

*Motion by Councilmember Williams, seconded by Councilmember Nawrocki to waive the reading of the Ordinance No. 1630, there being ample copies available to the public. All Ayes, Motion Carried.*

*Motion by Councilmember Williams, seconded by Councilmember Murzyn, Jr. schedule the second reading of Ordinance No.1630, being an ordinance amending Chapter 4, Section 28a pertaining to Candidate Filing Fees for July 11, at approximately 7:00 p.m. in the City Hall Council Chambers. All Ayes, Motion Carried.*

### **B. Bid Considerations**

### **C. New Business and Reports**

#### **Presentation By David Mol Of Redpath and Company, the City's Independent Auditors, on the highlights of the City's 2015 Comprehensive Annual Financial Report (CAFR). Presentation only, no action requested.**

Finance Director Joe Kloiber reported the full CAFR is available on the City's website.

David Mol, Redpath and Company gave an overview of the 2015 Audit Review. The following five reports were shared with the Council;

1. Opinion on the Fair Presentation of the Financial Statements. A "Clean Opinion" was given for 2015.

2. Report on Internal Controls. No items were noted for 2015.
3. Report on Minnesota Legal Compliance. No items of noncompliance noted.
4. Report on Financial Data Schedule. No items of noncompliance noted.
5. Communication to Those charged with Governance. The following change was made to the City's accounting policy; the City's proportionate share of PERA's net pension liability is now reported in the financial statements.

Director Kloiber reported he will be talking more about the change in future budget discussions with the council. Mayor Peterson asked why the change was made. Kloiber explained the change was instituted by the Government Accounting Standards Boards, a National Body. Mol reported the ending fund balance was \$29,646.00 (December 31, 2015).

A slight decrease in Liquor Operations occurred from 2014-2015. Councilmember Nawrocki questioned if the net profit accounts for debt service. Mr. Mol reported income from operations was \$511,000, of that; \$384,000 was needed for debt service.

Councilmember Schmitt questioned if bonding rates are expected to decrease. Kloiber stated that is unknown at this time. Kloiber noted the debt on the liquor operation is available for refinance in February, 2017. Kloiber indicated other options include using fund balance transfers for the Public Safety Bonds in 2018. Councilmember Nawrocki noted he would prefer to get the CAFR Report prior to the presentation. Councilmember Schmitt questioned if Park View Villa will be included in the city's budget. Kloiber stated it will not be in the budget, although there may be some remaining transactions in the future.

## **10. ADMINISTRATIVE REPORTS**

City Manager Walt Fehst encouraged the sharing of ideas for community involvement at the upcoming National Night Out events.

Councilmember Nawrocki requested the draft version of the newsletter be given to council for review when available.

Councilmember Nawrocki discussed options for the James LaBelle memorial, suggesting a joint project between the City and the School District. Mayor Peterson reported the School District is doing a project at the school, and the City's project is at LaBelle Park.

Councilmember Nawrocki asked for a report on the Jamboree carnival. City Manager Fehst indicated the Police Chief informed him that there were several incidences on Friday night, including fighting. Saturday night was less eventful. The City will continue to work with the Lions towards a solution. Overtime costs were estimated to be \$9,000 for the parade and carnival.

City Manager Walt Fehst reported that 1800 people attended the Library Grand Opening on June 24<sup>th</sup>. Gratitude was expressed to Public Works Director Kevin Hansen, Library Staff, and the Library Design Task Force. Councilmember Nawrocki suggested a wheelchair be available for use, as the distance from one end of the building to the other is long.

Councilmember Nawrocki stated a resident was upset because a proposed public works project on Jefferson St. was not completed when anticipated. Nawrocki suggested we do a better job informing the public of projects, and adhering to the schedule.

## **11. CITIZENS FORUM**

Malcom Watson-1717 49<sup>th</sup> Ave NE Congratulated the City on the new Library, and thanking Director Kevin Hansen for his constant attention to the construction project.

## **12. ADJOURNMENT**

Mayor Peterson reminded us to remember our service men and women, and our police officers and fire fighters, and to keep them in our thoughts and prayers.

Meeting adjourned at 9:10 p.m.

\_\_\_\_\_  
Respectively Submitted,  
Katie Bruno, Council Secretary/City Clerk

**2016-49**

Resolution of the City Council for the City of Columbia Heights declaring the property a nuisance and approving emergency abatement of ordinance violations pursuant to Chapter 8, Article II, of City Code, of the property owned by Ben Jacobson (Hereinafter "Owner of Record").

Whereas, the owner of record is the legal owner of the real property located at 4237 Quincy Street N.E. Columbia Heights, Minnesota.

Now, therefore, in accordance with the foregoing, and all ordinances and regulations of the City of Columbia Heights, the City Council of the City of Columbia Heights Makes the following:

**FINDINGS OF FACT**

1. That on June 14, 2016 the Fire Department responded to a complaint at the address listed above. Inspectors noted that the structure was open and unsecured.
2. That on June 14, 2016 the Fire Chief ordered that Advance Companies secure the vacant structure.
3. That based upon said records of the Fire Department, the following conditions and violations of City Codes(s) were found to exist and have been abated, to wit:
  - A. Approve the emergency abatement of the hazardous situation located at 4237 Quincy Street N.E.

**CONCLUSIONS OF COUNCIL**

1. That the property located at 4237 Quincy Street N.E. is in violation of the provisions of the Columbia Heights City Code as set forth in the Notice of Abatement.
2. That the emergency abatement of the hazardous situation located at 4237 Quincy Street N.E. is hereby approved.

**ORDER OF COUNCIL**

1. The property located at 4237 Quincy Street N.E. constitutes a nuisance pursuant to City Code.

**2016-59**

**BEING A RESOLUTION DESIGNATING ELECTION JUDGE SALARIES AND ELECTION JUDGES FOR THE 2016 PRIMARY AND GENERAL ELECTION**

**WHEREAS:** There are scheduled elections in the City of Columbia Heights and the State of Minnesota; and  
**WHEREAS:** Pursuant to City Charter, Section 30, and M.S.S. 204A, the Council shall appoint the following qualified voters to be judges for the 2016 Primary and General Election.



Robert Petty, Head Judge  
Lee Bak, Assistant Head Judge  
Samira Adam, Election Judge  
Darlene Bielejeski, Election Judge  
Gene Forseide, Election Judge  
Kathy Fossum, Election Judge  
Veronica Johnson, Election Judge  
Charles Kewatt, Election Judge  
Joyce Shellito, Election Judge  
Dolores Strand, Election Judge

**Columbia Heights P-2**

JoAnn Kewatt, Head Judge  
Marilyn Vaughan, Assistant Head Judge  
Ann Carder, Election Judge  
Dianne Cummings, Election Judge  
Mark Emme, Election Judge  
Bev Holub, Election Judge  
Melanie Mammen, Election Judge  
Robert Peltier, Election Judge  
Patricia Powell, Election Judge  
Joe Schluender, Election Judge  
Clifford Shedlov, Election Judge  
Dennis Stroik, Election Judge

**Columbia Heights P-3**

Dan Steiskal, Head Judge  
Marna Gomez, Assistant Head Judge  
Dwayne Anderson, Election Judge  
Dolores Fowler, Election Judge  
John Logacz, Election Judge  
Sherri Macko, Election Judge  
Barbara Miller, Election Judge  
David Sims, Election Judge  
Catherine Vesley, Election Judge

**Columbia Heights P-4**

Gretchen Gallagher-Weinstein, Head Judge  
Joel Andrychowicz, Assistant Head Judge  
Stephanie Avalos, Election Judge  
Shirley Browning, Election Judge  
Soundra Burgoyne, Election Judge  
Naly Chang, Election Judge  
Namgyal Dorjee, Election Judge  
Shirley Hartley, Election Judge  
Kathleen Johnson, Election Judge  
Marsha Stroik, Election Judge

**Columbia Heights P-5**

Clara Schmidt, Head Judge  
Latesia Thompson, Assistant Head Judge

Marjorie Dow, Election Judge  
Debra Grisco, Election Judge  
Joan Kinde, Election Judge  
Kent Lee, Election Judge  
Lorrie Nalezny, Election Judge  
Rheta Nelson, Election Judge  
Marjorie Scott, Election Judge  
Sharon Shedlov, Election Judge

**Columbia Heights P-6**

Michelle Ferreira, Head Judge  
Michael McGee, Assistant Head Judge  
Kevin Doty, Election Judge  
Tom Greenhalgh, Election Judge  
John Hanson IV, Election Judge  
Diana McDonald, Election Judge  
Mary Meier, Election Judge  
Deborah Osgood, Election Judge  
Bruce Shellito, Election Judge  
Doris Sunheim, Election Judge  
Sophia Walker, Election Judge

**Columbia Heights P-7**

Kathryn Morales, Head Judge  
Linda Cichomski, Assistant Head Judge  
Janet Belstler, Election Judge  
Fatuma Elmi, Election Judge  
Carol Felland, Election Judge  
Barbara Nundahl, Election Judge  
Grace Osterbauer, Election Judge  
Renee Sawyer, Election Judge  
Michele Schluender, Election Judge  
John Vachuska, Election Judge

**Columbia Heights P-8**

Teresa Carson, Head Judge  
Susan Betzold, Assistant Head Judge  
Laurel Best, Election Judge  
Mary Dowdle, Election Judge  
Steve Emme, Election Judge  
Carol Geier, Election Judge  
~~Marvin Helm, Election Judge~~  
Mary Ann O'Brien, Election Judge

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Columbia Heights does appoint the afore mentioned as election judges, by precinct, for the Primary Election on August 9, 2016 and the General Election on November 8, 2016 with an hourly compensation of \$11.00 for Head Judge, \$10.75 for Assistant Head Judge, \$10.50 for an Election Judge and \$6.75 for student judges. The City Clerk may designate additional and/or emergency judges, as necessary.

## Ordinance 1629

### SECTION 1:

Chapter 10, Sections 95, 96, 98 and 99 of the Charter of the City of Columbia Heights is amended as follows:

Section 95. PUBLICATION OF FRANCHISES. Every ordinance granting or extending any franchise shall contain all the terms and conditions of the franchise. A franchise shall be without any validity whatever until it has been accepted by the grantee, and until it has been given adequate publicity, either by publication of ~~the franchise verbatim~~ a summary franchise ordinance in the official paper of the City ~~at least once a week for four~~ two successive ~~weeks~~ publications after its passages, ~~or and by the posting of authentic copies of the franchise upon bulletin boards in at least ten of the most public places in the city~~ the summary ordinance in City Hall and the City Library for a period of thirty days after its passage.

Section 96. TERM OF FRANCHISES LIMITED. No perpetual franchise shall ever be granted, nor shall any franchise be granted for a longer term than ~~twenty-five~~ fifteen years.

~~Section 98. REGULATION OF RATES AND CHARGES. All corporations, co-partnerships, and persons exercising franchises in the city of Columbia Heights, shall give courteous, efficient and adequate service at reasonable rates.~~

~~Section 99. Nothing herein contained shall be construed as in any way preventing the electors from exercising their powers under the referendum to reject such franchise.~~

### SECTION 2:

This Ordinance shall be in full force and effect from and after thirty (30) days after its passage.

## Ordinance 1630

### **BEING AN ORDINANCE AMENDING CHAPTER 4, SECTION 28a OF THE CITY CHARTER OF THE CITY OF COLUMBIA HEIGHTS PERTAINING TO CANDIDATE FILING FEES**

The City of Columbia Heights does ordain:

#### **SECTION 1:**

Chapter 4, Section 28a of the Charter of the City of Columbia Heights is amended as follows:

Section 28a. THE PRIMARY ELECTION. A primary municipal election shall be held on the date established by Minnesota State Law of any year in which a municipal general election is to be held for the purpose of electing officers, at the same place or places as general elections are held and like officers shall preside at such elections.

The purpose of such primary election shall be to select candidates to be voted for at the general municipal election. The candidates for nomination to each office who shall receive the greatest number of votes in such primary election shall be placed upon the ballot of the next general election in numbers not to exceed double the number of vacancies to be filled, and no other name shall be placed upon the ballot for such general election than the candidates selected at said primary election. When not more than twice the number of individuals to be elected to a municipal office file for nomination to any municipal office, no primary shall be held, and the names of those having filed shall be placed on the municipal general election ballot as the nominee for that office. Any person desiring to become a candidate for an elective office in the general municipal election shall file with the city clerk at least fifty-six days prior to but not more than seventy days prior to said primary municipal election an affidavit of such candidacy as set forth in Minnesota Statutes 204B.06, subd. 1, and shall pay to the City Clerk the sum of ~~Five~~

Fifteen Dollars for which the City Clerk shall give a receipt expressing the purpose of the payment. Such City Clerk shall forthwith pay all fees so received to the City Treasurer. Upon compliance with the provisions of this section the City Clerk shall place such name upon the primary election ballot as a candidate for the office named. At least fifteen days notice shall be given by the City Clerk of the time and place of holding such primary election and of the officers to be nominated, by posting a notice thereof in at least three of the most public places in each election district in the city or by publication of a notice thereof at least once in the official newspaper, or both, as the City Council may ordain, but failure to give such notice shall not invalidate such election. (Ordinance No. 1300, passed April 10, 1995) (Ordinance No. 1596, passed on May 9, 2011)

**Ordinance 1631**

BEING AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY BY THE CITY OF COLUMBIA HEIGHTS TO THE COLUMBIA HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY LOCATED AT 4011 5th STREET.

The City of Columbia Heights does ordain:

**SECTION 1:** The City of Columbia Heights, a Minnesota municipal corporation, may convey unto the Columbia Heights Economic Development Authority, the real property described as follows, to wit:

4011 5<sup>th</sup> Street: Lot 18, Block 52, Columbia Heights Annex to Minneapolis, Anoka County, Minnesota

**SECTION 2:** The Mayor and the City Manager are herewith authorized to execute a deed to effectuate the conveyance of said real property.

**MINUTES OF  
PLANNING AND ZONING COMMISSION  
APRIL 6, 2016  
7:00 PM**

The meeting was called to order at 7:08 pm by Chair Szurek.

Commission Members present- Buesgens, Hoium, and Szurek

Members Absent: Fiorendino and Schill

Also present were Elizabeth Holmbeck (Planner), and Shelley Hanson (Secretary) along with Council Liaison, John Murzyn.

Holmbeck told commission members that Adam Schill has been appointed to serve on the Commission, but was unable to attend this meeting due to illness.

*Motion by Buesgens, seconded by Hoium, to approve the minutes from the meeting of March 2, 2016. All ayes.  
MOTION PASSED.*

**PUBLIC HEARINGS**

**CASE NUMBER: 2016-0401**  
**APPLICANT: Craig Eilers, White Castle Restaurant**  
**LOCATION: 5055 Central Avenue**  
**REQUEST: Site Plan Approval**

Craig Eilers, White Castle Restaurants, has applied for Site Plan Approval. The applicant is proposing to tear down the existing White Castle Restaurant and reconstruct the restaurant on the property located at 5055 Central Avenue NE., Columbia Heights, MN 55421. The proposed plan will result in an updated and modern White Castle Restaurant on the commercial site.

The existing building is 2,475 square feet. The new building will be 2,865 square feet, and 390 square feet larger than the existing building. The proposed site plan will include a number of site improvements including the new building, trash enclosure, parking lot, landscaping and lighting and menu board signage. A narrative provided by the applicant, and was included in the agenda packets.

**ZONING ORDINANCE**

The property located at 5055 Central Avenue NE., is located in the General Business Commercial Zoning District. The properties to the north, south, east and west are also located in the General Business Commercial Zoning District.

**COMPREHENSIVE PLAN**

The Comprehensive Plan guides this property for commercial use. Reconstructing the commercial restaurant on the site is consistent with the goals and intent of the comprehensive Plan.

## **DESIGN GUIDELINES**

Holmbeck explained the subject property is located within the Design Guideline Overlay District, and is governed by the “Highway District” standards within the Design Guidelines. The intent of the Design Guidelines is to make the City more aesthetically appealing, by requiring a set of minimum standards for new construction along Central Avenue and 40<sup>th</sup> Avenue. The minimum standards were created by a task force of City Officials, business owners and residents, and adopted into the City Code by the City Council.

In general, the proposed buildings meet the design guidelines. Signage will be addressed when the applicant or tenant applies for a Sign Permit. Signage must be consistent with Design Guidelines and with City Code. The following components are requirements of the Design Guidelines Highway District and how the applicant has attempted to meet the guidelines:

- Buildings may be set back a maximum of 85 feet from the sidewalk, in order to allow for two rows of parking and drive aisles plus landscaped frontage.

The proposed building will be located approximately 54 feet from the sidewalk along Central Avenue.

- The primary facade(s) of buildings of 40 feet or more in width should be articulated into smaller increments through the techniques such as using of different textures or contrasting, but compatible, materials; dividing storefronts with separate display windows and entrances or incorporating arcades, awnings, window bays, balconies or similar ornamental features.

The proposed building is less than 40 feet in width. The proposed building will be 38.23 feet wide.

- Building height shall be a minimum of 22 feet.

The proposed building will be 27.4 feet tall at the tower and 18.8 feet tall to the parapet.

- Where commercial or office uses are found on the ground floor, at least 20 percent of the ground floor facade fronting Central Avenue and 15 percent of any two side or rear facades shall consist of window and door openings.

The proposed plan meets this guideline on the front and sides of the building, however there are no windows on the rear side of the building.

- The building should have a well-defined front facade with primary entrances facing the street.

The proposed building will have a well-defined front façade, with the primary entrance facing Central Avenue.

- Building colors should accent, blend with, or complement surroundings.

The colors that are proposed are neutral, coincide with the company’s recognizable restaurant brand, and should complement the surrounding area.

- No more than two principal colors may be used on a façade or individual storefront. Bright or primary colors should be used only as accents, occupying a maximum of 15 percent of building facades, except when used in a mural or other public art.

The proposed building will consist of two primary colors: blue and yellow.

- All buildings should be constructed of high-quality materials, including the following: Brick, Natural Stone, Stucco Precast concrete units and concrete block, provided that surfaces are molded, serrated or treated with a textured material in order to give the wall surface a three dimensional character. Jumbo

- brick may be used on up to 30 percent of any façade, provided that it is used only on the lower third of the building wall.

The proposal meets this guideline. The building will be constructed with brick and stone.

- Architectural details such as ornamental cornices, arched windows and warm-toned brick with bands of contrasting color are encouraged in new construction.

The proposal generally meets the intent of this guideline.

- Parking areas adjacent to public streets or sidewalks shall be screened with a combination of landscape material and decorative fencing or walls sufficient to screen parked cars on a year-round basis while providing adequate visibility for pedestrians.

The proposed landscape plan includes a variety of trees and shrubs to be planted around the perimeter of the site, which should provide adequate screening.

## **SITE PLAN**

### **1. Parking**

The proposed plan identifies 31 parking stalls for the restaurant. Staff believes this number is adequate, as it exceeds the minimum zoning requirement. For convenience food service establishments, the Zoning Code requires 6 parking spaces plus one per 40 square feet of dining/service area, plus 6 stacking spaces for each drive thru lane. By this standard, the plan exceeds the required 29 required spaces with an additional 2 spaces ( $900 \text{ sq. ft. of service area} / 40 = 22.5$  or 23 spaces + 6 stacking spaces = 29).

### **2. Access**

The site will be served by two access points off Central Avenue onto 51<sup>st</sup> Court. The property itself will be served by three entrances off 51<sup>st</sup> Court. The property currently has 4 access points one to the north, one to the south, and two on the east side of the property. The applicant is proposing to close the north east access point to allow for additional parking.

### **3. Landscape**

The proposed landscaping materials are shown on the attached Landscape Plan. The applicant is proposing to plant trees and shrubs which will complement the layout of the development.

The applicant is proposing to construct an ADA compliant sidewalk from the front of the building to the sidewalk along Central Avenue, providing pedestrian connectivity to the surrounding area.

## **FINDINGS OF FACT**

Section 9.104 (N) of the Zoning Ordinance outlines four findings of fact that must be met in order for the City to approve a Site Plan. They are as follows:

- a. The Site Plan conforms to all applicable requirements of this article.  
The applicable Zoning Code requirements are achieved.

- b. The Site Plan is consistent with the applicable provisions of the City's Comprehensive Plan.  
The Comprehensive Plan guides this area for commercial development. The proposed Site Plan for the property is consistent with the intent of the Comprehensive Plan.
- c. The Site Plan is consistent with any applicable area plan.  
There is no area plan for this parcel.
- d. The Site Plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

The proposed Site Plan for meets all the minimum setback requirements and general development standards outlined in the Zoning Code. Therefore, the properties in the immediate vicinity of the proposed development should not be adversely impacted.

Holmbeck reviewed the conditions listed in the motion for approval.

Questions from members:

Szurek said she would like to see a sample or rendering of the colors that will be used for the new building. Holmbeck stated that the building is primarily white with stripes that go around the building. She said the building is a new design with an exterior that will be stone and brick and she showed the members a drawing.

Buesgens stated that the building and menu board are being demolished and replaced. She wondered if they were also replacing the current pylon sign. Holmbeck said the owners planned on re-facing the existing sign. Buesgens asked if the Commission could make it a requirement to replace the sign with a monument sign. Szurek agreed that it should be a monument sign as the building is being replaced and she thought that was required according to the Design Guidelines. Holmbeck said it could be added as a condition of approval if the commission members decide to enforce that recommendation.

Hoium questioned the access points and position of the building. Holmbeck reviewed the placement of the building on the site and where the drive-up area is located as well as the access points from the surrounding streets. She noted that one access that is currently used in the northeast corner of the property will be eliminated.

Mr. Eilers from White Castle told members that the existing building was constructed in 1978 and the drive-through was added in 1986. He said the building needs updating and renovations so they have decided to re-build it using the new proto-type design. He said the exterior will be stone and brick and be more aesthetically appealing than the old enameled metal siding that is on the existing building. He showed members samples of the materials that will be used.



Szurek stated that she was concerned that vehicles must drive through the entire site in order to pick up an order. Eilers stated that the menu board will be on the back side of the building. 90% of their buildings are designed this way and it has worked well for them.

Szurek asked him when they plan to start. He responded that they hope to demolish the building in July and start construction in August. He said the whole process should take about 4 months so they should be open again before year end.

There was another short discussion regarding the monument sign and it was decided to add it to the list of conditions of approval.

Public Hearing Opened.

No one was present to speak on this.

Public Hearing Closed.

*Motion by Buesgens, seconded by Hoiium, to waive the reading of Resolution No. 2016-PZ02, there being ample copies available to the public. All ayes. MOTION PASSED.*

*Motion by Buesgens, seconded by Hoiium, to adopt Resolution No. 2016—PZ02, being a resolution approving a Site Plan, for the proposed White Castle Restaurant, subject to the following conditions:*

- 1. The building and site shall meet all requirements found in the Fire Code and the Building Code.*
- 2. Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.*
- 3. Mechanical equipment shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets.*
- 4. The applicant shall meet the requirements outlined in the attached report from the Public Works Director/City Engineer, dated March 29, 2016.*
- 5. All City Storm Water Management requirements shall be achieved for this property.*
- 6. Site and elevation plans included in this submittal, dated February 16, 2016 shall become part of this approval.*
- 7. All other applicable local, state, and federal requirements shall be met at all times.*
- 8. That the applicant must replace the pylon sign with a monument sign according to the Design Guidelines. Maximum size of the sign will be determined by staff.*

*All ayes. MOTION PASSED.*

**RESOLUTION NO. 2016-PZ02**

**A Resolution of the Planning and Zoning Commission for the City of Columbia Heights, Minnesota,**

Whereas, a proposal (Case # 2016-0401) has been submitted by Craig Eilers on behalf of White Castle Restaurant, to the Planning and Zoning Commission requesting Site Plan Approval from the City of Columbia Heights at the following site:

Address: 5055 Central Avenue NE., Columbia Heights, MN 55421

Legal Description: On file at City Hall.

The applicant seeks the following: Site Plan Approval for a proposed commercial building to be located at 5055 Central Avenue NE.

Whereas, the Planning and Zoning Commission has held a public hearing as required by the City's Zoning Code, on April 6<sup>th</sup>, 2016.

Whereas, the Planning and Zoning Commission has considered the advice and recommendations of City Staff regarding the effect of the proposed Site Plan upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas; and

Now, therefore, in accordance with the foregoing, and all Ordinances and regulations of the City of Columbia Heights, the Planning and Zoning Commission of the City of Columbia Heights makes the following:

**FINDINGS OF FACT**

1. The site plan conforms to all applicable requirements of this article.
2. The site plan is consistent with the applicable provisions of the city's comprehensive plan.
3. The site plan is consistent with any applicable area plan.
4. The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

Further, be it resolved, that the attached conditions, maps, and other information shall become part of this approval; and in granting this approval the City and the Applicant agree that this Site Plan shall become null and void if the project has not been completed within one (1) calendar year after the approval date, subject to petition for renewal of the permit.

Conditions Attached:

1. The building and site shall be meet all requirements found in the Fire Code and the Building Code.
2. Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
3. Mechanical equipment shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets.
4. The applicant shall meet the requirements outlined in the attached report from the Public Works Director/City Engineer, dated March 29, 2016.
5. All City Storm Water Management requirements shall be achieved for this property.
6. Site and elevation plans included in this submittal, dated February 16, 2016 shall become part of this approval.
7. All other applicable local, state, and federal requirements shall be met at all times.

Passed this 6<sup>th</sup> day of April, 2016

Offered by: Buesgens  
Seconded by: Hoium  
Roll Call: All ayes

\_\_\_\_\_  
Marlaine Szurek, Chair

Attest:

\_\_\_\_\_  
Shelley Hanson, Secretary

### **OTHER BUSINESS**

1. Temporary Event Permits and Interim Use Permits

Holmbeck explained that staff has created a Temporary Events Permit application for special events that are held for less than 30 days such as church festivals, Ramadan tents, etc. These permits will be issued by staff and will be used for tracking the events and also to gather information from the applicant to ensure public safety. These Temporary Events Permits will not replace Interim Use Permits that will still come before the Planning & Zoning Commission for approval. Interim Use Permits are required for garden centers, Christmas tree sales, and fireworks sales.

2. Ordinance No. 1626, Text Amendment (update)-Amending City Code of 2005 relating to Automotive Uses.

Holmbeck stated that this Ordinance was brought before the City Council in March. The Council tabled adoption of the Ordinance since it didn't specifically address Auto parts stores. When it was discussed at the last work session the City Council also wanted language in the Ordinance to include motorcycle shops. Staff will bring this back to the Council at the April 25<sup>th</sup> meeting.

The meeting was adjourned at 7:30 pm.

Respectfully submitted,

Shelley Hanson  
Secretary



<b>AGENDA SECTION</b>	CONSENT
<b>ITEM NO.</b>	7C
<b>MEETING DATE</b>	JULY 11, 2016

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	CITY OF COLUMBIA HEIGHTS, MINNESOTA RESOLUTION 2016-60 AUTHORIZING, APPROVING, AND ADOPTING AN AMENDED AND RESTATED PROGRAM FOR A MULTIFAMILY HOUSING DEVELOPMENT PURSUANT TO MINNESOTA STATUTES, CHAPTER 462	
<b>DEPARTMENT:</b> Finance	<b>CITY MANAGER'S APPROVAL:</b>	
<b>BY/DATE:</b> Joseph Kloiber / July 5, 2016	<b>BY/DATE:</b>	

**BACKGROUND:** In October 2015 and March 2016 respectively, the city council adopted resolutions 2015-86 and 2016-24, which authorized issuance of conduit debt on behalf of the developer, Dominion, for construction of 191 units of senior housing within the Huset Park redevelopment area. Those resolutions also approved a housing program, which is required under state law for the developer to receive this particular type of financing. When that housing program was subsequently submitted to the State of Minnesota for approval, the State chose to not provide tax exemption in 2016 for the entire project. This was due to a large number of similar projects submitted to the State for 2016.

That original housing program required 100% of the Lily Gables units to be occupied by at least one resident age 55 or older. The attached resolution 2016-60 modifies the program to allow up to 20% of the units to only require one resident age 50 or older. The developer judges that this change will allow the State to provide tax exemption in 2016 for the entire project.

In addition to this resolution to modify the housing program provided to the State, separate resolutions will be presented to the city council and the EDA for the related changes to the agreement with the Developer.

As previously noted, debt of this type is not an obligation of the City or its taxpayers. Only project revenues (rental income) and other resources of the developer are pledged for repayment. As also previously noted, the redevelopment agreement requires the developer to pay the issuance costs of this financing, plus an administrative fee to the City of 1% of the value of the bonds at issuance. This fee of up to \$350,000 was negotiated based on the estimated rate available to the developer through Anoka County, and in light of the various other developer requirements negotiated on behalf of the City for all other aspects of this project.

**STAFF RECOMMENDATION:** Staff recommends approval of the following motions.

**RECOMMENDED MOTION(S):**

MOTION: Move to waive the reading of Resolution 2016-60, there being ample copies available to the public.

MOTION: Move to adopt City of Columbia Heights, Minnesota, Resolution 2016-60, being a resolution authorizing, approving, and adopting an amended and restated program for a multifamily housing development pursuant to Minnesota Statutes, Chapter 462.

**ATTACHMENTS:** Resolution 2016-60  
Amended and Restated Housing Program for a Multifamily Housing Development

**CITY OF COLUMBIA HEIGHTS, MINNESOTA**

**RESOLUTION 2016-60**

**AUTHORIZING, APPROVING, AND ADOPTING AN AMENDED AND RESTATED PROGRAM FOR A MULTIFAMILY HOUSING DEVELOPMENT PURSUANT TO MINNESOTA STATUTES, CHAPTER 462C**

WHEREAS, the City of Columbia Heights, Minnesota (the “City”) is a home rule charter city duly organized and existing under the Constitution and laws of the State of Minnesota; and

WHEREAS, pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Act”), the City is authorized to carry out the public purposes described in the Act by issuing revenue bonds or other obligations to finance or refinance multifamily housing developments located within the City, and as a condition to the issuance of such revenue bonds, adopt a housing program providing the information required by Section 462C.03, subdivision 1a, of the Act; and

WHEREAS, pursuant to Section 462.04, subdivision 2, a public hearing must be held on a proposed housing program and the city must submit the housing program to the Metropolitan Council on or before the day on which notice of the public hearing is published for review and comment on: (i) whether the housing program furthers local and regional housing policies and is consistent with the Metropolitan Development Guide, and (ii) the compatibility of the housing program with the housing portion of the comprehensive plan of the city, if any; and

WHEREAS, Columbia Heights Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), has requested that the City issue its multifamily housing revenue obligations under the Act and lend the proceeds thereof to the Borrower to finance the following: (i) the construction and equipping of a multifamily housing facility comprised of 191 affordable independent-living rental apartments to be located in a four-story building, together with related common amenity spaces over one floor of underground parking, including a party room, theatre, fitness center, cards/crafts room, salon, library and a landscaped patio, to be located at 3700 5<sup>th</sup> Street NE in the City to be known as Lily Gables (the “Project”); (ii) the funding of one or more reserve funds to secure the timely payment of the multifamily housing revenue obligations; (iii) the payment of a portion of the capitalized interest on the multifamily housing revenue obligations; and (iv) the payment of the costs of issuing the multifamily housing revenue obligations; and

WHEREAS, following a duly noticed public hearing held on October 26, 2016 in accordance with the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) and the Act, the City Council adopted Resolution 2015-86 (the “Preliminary Resolution”) under the terms of which the City: (i) granted preliminary approval to the issuance of multifamily housing revenue obligations in the approximate principal amount of \$32,000,000 under the terms of the Act to finance the Project; (ii) authorized the submission of an application to the Minnesota Department of Management and Budget (“MMB”) for an allocation of bonding authority under Minnesota Statutes, Chapter 474A, as amended (the “Allocation Act”) as required by Section 146 of the Code; and (iii) acknowledged the preparation of a housing program (the “Original Housing Program” or “Program”) to authorize the issuance by the City of multifamily housing revenue obligations in the aggregate principal amount of approximately \$32,000,000 to finance the acquisition, construction, and equipping of the Project in accordance with the requirements of the Act and the submission of the Housing Program to the Metropolitan Council for its review and comment; and

WHEREAS, the Original Housing Program provided that all housing units within the Project shall be occupied by at least one person who is at least 55 years of age at the time of initial occupancy and that the City would by resolution authorize, issue and sell its revenue bonds in one or more series in an aggregate principal amount of approximately \$32,000,000 to finance the Program; and

WHEREAS, the Original Housing Program was submitted to the Metropolitan Council for its review and comment in accordance with the requirements of Section 462C.04, subdivision 2 of the Act, and by a letter dated December 21, 2015, the Metropolitan Council informed the City that it had completed its review of the Program and provided its comments;

WHEREAS, following a duly noticed public hearing held on March 14, 2016 in accordance with the requirements of Section 147(f) of the Code and the Act, the City Council adopted Resolution No. 2016-24 (the "Bond Resolution"), under the terms of which the City: (i) adopted, ratified and approved the Original Housing Program; (ii) ratified the authorization granted pursuant to the Preliminary Resolution with respect to the submission of an application for allocation of bonding authority pursuant to Section 146 of the Code and the Allocation Act; (iii) authorized the issuance, sale, and delivery of its multifamily housing revenue obligations in an increased maximum aggregate principal amount not to exceed \$35,000,000 (the "Series 2016 Obligations") upon receipt of an allocation of bonding authority from MMB; (iv) approved the forms of financing documents on file with the City and prepared in connection with the Series 2016 Obligations (the "Financing Documents"), and authorized and directed the delivery of the same; (v) obligated the Borrower to pay the administrative fee of the City in accordance with the terms of the Financing Documents; and (vi) granted to the Mayor of the City and the City Manager and such other officials of the City who execute and deliver the Series 2016 Obligations and related documents, Kennedy & Graven, Chartered ("Bond Counsel"), other attorneys, engineers, and other agents or employees of the City the authority to do all acts and things required of them by or in connection with the Bond Resolution, the Financing Documents, and the Series 2016 Obligations; and

WHEREAS, the Borrower desires to modify the occupancy restrictions of the Project and thereby amend the Original Housing Program to provide that not more than eighty percent (80%) of the housing units within the Project shall be occupied by at least one person who is at least 55 years of age at the time of initial occupancy and not more than twenty percent (20%) of the housing units within the Project shall be occupied by at least one person who is at least 50 years of age at the time of initial occupancy; and

WHEREAS, the Borrower has requested that the City also amend the Original Housing Program to provide for the issuance of the Series 2016 Obligations in the maximum aggregate principal amount not to exceed \$35,000,000, in accordance with the Bond Resolution; and

WHEREAS, Bond Counsel, on behalf of the City, has prepared a draft Amended and Restated Program for a Multifamily Housing Development (the "Amended Housing Program"), in the form now on file with the City, that amends the Original Housing Program by: (i) providing that not more than eighty percent (80%) of the housing units within the Project shall be occupied by at least one person who is at least 55 years of age at the time of initial occupancy and not more than twenty percent (20%) of the housing units within the Project shall be occupied by at least one person who is at least 50 years of age at the time of initial occupancy and; (ii) authorizing the issuance by the City of up to \$35,000,000 in revenue bonds to finance the acquisition, construction, and equipping of the Project by the Borrower; and

WHEREAS, the proposed amendments to the Original Housing Program, as set forth in the Amended Housing Program, do not constitute material changes from the Original Housing Program submitted to the Metropolitan Council other than changes in the financial aspects of the proposed Series 2016 Obligations, and are not inconsistent with the comments of the Metropolitan Council to the Original

Housing Program under Section 462C.04, subdivision 2 under the Act; therefore the City is not required to resubmit the Amended Housing Program to the Metropolitan Council for review and comment and a public hearing is not required to be held on the Amended Housing Program before the City may adopt the Amended Housing Program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA HEIGHTS, MINNESOTA AS FOLLOWS:

1. The Amended Housing Program, in the form now on file with the City, is hereby authorized, approved and adopted in all respects. The preparation of the Amended Housing Program is hereby ratified, confirmed, and approved. The City Manager is hereby authorized to do all other things and take all other actions as may be necessary or appropriate to carry out the Amended Housing Program in accordance with the Act and any other applicable laws and regulations. Pursuant to the Amended Housing Program, not more than eighty percent (80%) of the housing units within the Project shall be occupied by at least one person who is at least 55 years of age at the time of initial occupancy and not more than twenty percent (20%) of the housing units within the Project shall be occupied by at least one person who is at least 50 years of age at the time of initial occupancy.

2. This resolution shall be in full force and effect from and after its approval.

Adopted: July 11, 2016.

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Gary Peterson, Mayor

ATTEST:

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Katie Bruno, City Clerk

CL162-052 (SEL)  
482170v.1

**CITY OF COLUMBIA HEIGHTS, MINNESOTA**

**AMENDED AND RESTATED  
PROGRAM FOR A MULTIFAMILY HOUSING DEVELOPMENT**

**Columbia Heights Apartments  
Columbia Heights Leased Housing Associates I, LLLP**

Proposal; Authority. Pursuant to Minnesota Statutes, Chapter 462C (the “Act”), the City of Columbia Heights, Minnesota (the “City”) is authorized to develop and administer programs to finance multifamily senior housing developments under the circumstances and within the limitations set forth in the Act. Minnesota Statutes, Section 462C.07, provides that such programs for multifamily housing developments may be financed by revenue bonds issued by the City.

The City has received a proposal from Columbia Heights Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower” or the “Company”) that the City: (i) issue conduit revenue bonds or other obligations (the “Bonds”), in the principal amount of approximately \$35,000,000, and loan the proceeds derived from the sale of the Bonds to make a loan to the Company; and (ii) adopt housing program with respect to the Bonds. The Company proposes to use the proceeds of such loan to finance the acquisition, construction, and equipping of a multifamily housing facility comprised of 191 affordable independent-living rental apartments to be located in a four-story building, together with related common amenity spaces over one floor of underground parking, including a party room, theatre, fitness center, cards/crafts room, salon, library and a landscaped patio, to be located at 3700 5<sup>th</sup> Street NE in the City (the “Project”). It is expected that a portion of the dwelling units of the Project will be subject to occupancy limits imposed by federal income tax law and regulations such that only persons and families within designated income limits will be permitted to occupy such units.

The City, in establishing this Amended and Restated Program for a Multifamily Housing Development (the “Program”), has considered the information contained in the City’s comprehensive plan. The Project will be acquired and constructed in accordance with the requirements of Subdivisions 1 and 2 of Section 462C.05 of the Act.

Section A. Definitions. The following terms used in this Program shall have the following meanings, respectively:

“Act” shall mean Minnesota Statutes, Chapter 462C, as currently in effect and as the same may be from time to time amended.

“Bonds” shall mean one or more series of conduit revenue bonds or other obligations to be issued by the City, in the principal amount of approximately \$35,000,000.

“Borrower” shall mean the Company.

“City” shall mean the City of Columbia Heights, Minnesota.

“Company” shall mean Columbia Heights Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, or another affiliated entity to be formed.

“Housing Unit” shall mean any one of the dwelling units financed with the Bonds, each located in the Project, occupied by one person or family, and containing complete living facilities.



“Land” shall mean the real property upon which the Project is situated.

“Program” shall mean this housing program for the financing of the Project pursuant to the Act.

“Project” shall mean the multifamily housing facility comprised of 191 affordable independent-living rental apartments to be located in a four-story building, together with related common amenity spaces over one floor of underground parking, including a party room, theatre, fitness center, cards/crafts room, salon, library and a landscaped patio, to be located at 3700 5<sup>th</sup> Street NE in the City, to be acquired, constructed, and equipped by the Company.

“Qualified Project Period” shall mean the period beginning on the first day on which ten percent (10%) of the Housing Units are occupied following the acquisition and construction of the Project with the proceeds of the Bonds and shall end on the latest of the following: (i) the date which is fifteen (15) years after the date on which at least fifty percent (50%) of the Housing Units in the Project are first occupied; or (ii) the first day on which no principal of the Bonds is outstanding and no other tax-exempt private activity bond issued with respect to the Project is outstanding; or (iii) the termination date of any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, including the initial term and any renewal thereof.

Section B. Program for Financing the Project. It is proposed that the City establish this Program to provide financing for the acquisition, construction, and equipping of the Project at a cost and upon such other terms and conditions as are set forth herein and as may be agreed upon in writing between the City, the initial purchaser of the Bonds, and the Company. The City expects to issue the Bonds as soon as the terms of the Bonds have been agreed upon by the City, the Company, and the initial purchaser of the Bonds. The proceeds of the Bonds will be loaned by the City to the Company to finance the acquisition, construction, and equipping of the Project, to fund required reserves, to pay interest on the Bonds during the construction of the Project, and to pay a portion of the costs of issuing the Bonds.

It is anticipated that the Bonds will have a maturity of approximately forty (40) years or less and will bear interest at a variable rate or at fixed rates consistent with the market at the time of issuance.

The City will hire no additional staff for the administration of the Program. Insofar as the City will be contracting with underwriters, legal counsel, bond counsel, the fiscal agent, and others, all of whom will be reimbursed from bond proceeds and revenues generated by the Program, no administrative costs will be paid from the City’s budget with respect to this Program. The Bonds will not be general obligation bonds of the City, but are to be paid only from properties pledged to the payment thereof, which may include additional security such as additional collateral, insurance, or a letter of credit.

Section C. Standards and Requirements Relating to the Financing of the Project Pursuant to the Program. The following standards and requirements shall apply with respect to the operation of the Project by the Company pursuant to this Program:

- (1) Substantially all of the proceeds of the sale of the Bonds will be applied to the acquisition, construction, and equipping of the Project, the payment of a portion of the costs of issuing the Bonds, the payment of interest on the Bonds during the construction of the Project, and the funding of appropriate reserves. The proceeds of the Bonds will be made available to the Company pursuant to the terms of a loan agreement (or other revenue agreement) which will include certain covenants to be made by the Company to the City regarding the use of proceeds and the character and use of the Project.

(2) The Project qualifies as a “multifamily housing development,” within the meaning of the Act, since it is comprised of one or more buildings located on contiguous parcels, the units of which are rented to persons or families for use as residences.

(3) The Company, and any subsequent owner of the Project, will not arbitrarily reject an application from a proposed tenant because of race, color, creed, religion, national origin, sex, marital status, or status with regard to public assistance or disability.

(4) It is expected that at least one hundred percent (100%) of the Housing Units will be held for occupancy by families or individuals with gross income not in excess of sixty percent (60%) of median family income, adjusted for family size. This set aside would satisfy the low-income occupancy requirements of Section 462C.05, subdivision 2, of the Act, if they were applicable.

(5) From the commencement of the Qualified Project Period, not more than eighty percent (80%) of the Housing Units shall be occupied by at least one person who is at least 55 years of age at the time of initial occupancy and not more than twenty percent (20%) of the Housing Units shall be occupied by at least one person who is at least 50 years of age or older at the time of initial occupancy.

Section D. Evidence of Compliance. The City may require from the Company at or before the issuance of the Bonds, evidence satisfactory to the City of compliance with the standards and requirements for the making of the financing established by the City, as set forth herein; and in connection therewith, the City or its representatives may inspect the relevant books and records of the Company in order to confirm such ability, intention and compliance. In addition, the City may periodically require certification from either the Company or such other person deemed necessary concerning compliance with various aspects of this Program.

Section E. Issuance of Bonds. To finance the Program authorized by this Section the City will by resolution authorize, issue, and sell its revenue bonds in one or more series in an aggregate principal amount not to exceed \$35,000,000. The Bonds will be issued pursuant to Section 462C.07, subdivision 1, of the Act, and will be payable primarily from the revenues of the Project. The costs of the Project, including capitalized interest, costs of issuance of the Bonds and required reserve funds, are presently expected to be in excess of the principal amount of the Bonds. It is expected that the Company will contribute to the Project the difference between the total costs of the Project and the principal amount of the Bonds available to finance the Project. The costs of the Project may change between the date of preparation of this Program and the date of issuance of the Bonds. The Bonds are expected to be issued in the third calendar quarter of 2016.

Section F. Severability. The provisions of this Program are severable and if any of its provisions, sentences, clauses, or paragraphs shall be held unconstitutional, contrary to statute, exceeding the authority of the City, or otherwise illegal or inoperative by any court of competent.

Section G. Amendment. The City shall not amend this Program, while Bonds authorized hereby are outstanding, to the detriment of the holders of such Bonds.

Section H. State Ceiling.

(1) An application for an allocation of a portion of the annual volume cap for private activity bonds will be made or has been made to the office of Minnesota Management & Budget,

pursuant to Section 146 of the Code and Minnesota Statutes, Chapter 474A, as amended (the “Allocation Act”).

(2) Pursuant to the terms and requirements of the Allocation Act: (i) the Project will meet the requirements of Section 142(d) of the Code regarding the incomes of the occupants of the Project; and (ii) the maximum rent for at least twenty percent (20%) of the Housing Units will not exceed the area fair market rent or exception fair market rents for existing housing, if applicable, as established by the United States Department of Housing and Urban Development.

(3) Prior to the issuance of the Bonds, the Company will enter into a Regulatory Agreement with the City that specifies the maximum rental rates of the rent-restricted units in the Project and the income levels of the residents of the Project occupying the income-restricted units. Such rental rates and income levels must be within the limitations established in accordance with the preceding paragraph (2). The Company will be required to annually certify to the City over the term of the agreement that the rental rates for the rent-restricted units are within the limitations under the preceding paragraph (2). The City may request individual certification of the income of residents of the income-restricted units of the Project. The office of Minnesota Management & Budget may request from the City a copy of the annual certification prepared by the Company. The office of Minnesota Management & Budget may require the City to request individual certification of all residents of the income-restricted units of the Project.

(4) The City will monitor Project compliance with the rental rate and income level requirements established under the preceding paragraph (2). The City may issue an order of noncompliance if the Project is found by the City to be out of compliance with the rental-rate or income-level requirements established under the preceding paragraph (2). The Company shall pay a penalty to the City equal to one-half of one percent of the total amount of the Bonds issued under the Allocation Act for the Project if the City issues an order of noncompliance. For each additional year the Project is out of compliance, the annual penalty must be increased by one-half of one percent of the principal amount of the Bonds issued under the Act for the Project. The City may waive insubstantial violations.

This Program relates solely to the Project described herein. This Program is separate and distinct from any and all housing policies established by the Housing and Redevelopment Authority in and for the City of Columbia Heights.



<b>AGENDA SECTION</b>	Consent
<b>ITEM NO.</b>	7D
<b>MEETING DATE</b>	July 11, 2016

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	Recreation Seasonal Wage Adjustment		
<b>DEPARTMENT:</b>	Administration	<b>CITY MANAGER'S APPROVAL:</b>	
<b>BY/DATE:</b>	Kelli Bourgeois; 7/7/16	<b>BY/DATE:</b>	

**BACKGROUND:**

The minimum wage for the State of Minnesota is increasing from the current \$9.00 per hour to \$9.50 per hour effective August 1, 2016. This wage increase affects a number of seasonal recreation positions requiring an adjustment to the Recreation Seasonal Wage Scale that was approved in 2015. Attached please find the proposed new wage scale making all of our positions compliant with the upcoming law change.

**RECOMMENDED MOTION:** Move to waive the reading of Resolution 2016-61, there being ample copies available to the public.

**RECOMMENDED MOTION:** Move to adopt Resolution 2016-61, adopting changes in wage ranges and establishing wages for seasonal recreation employees effective August 1, 2016.

**RESOLUTION 2016-61**

**ADOPTING CHANGES IN WAGE RANGES AND ESTABLISHING WAGES FOR  
TEMPORARY PART-TIME LIBRARY POSITIONS,  
SEASONAL PUBLIC WORKS POSITIONS,  
SEASONAL/TEMPORARY RECREATION POSITIONS,  
AND INTERNS**

WHEREAS, the City of Columbia Heights adopted a Wage Compensation Program for Non-Unionized City Employees effective January 1, 1980 (Resolution 80-47), which indicated that on an annual basis, changes may be adopted in Wage Ranges; and

WHEREAS, effective August 1, 2016 the State of Minnesota minimum wage is being increased from the current \$9.00 per hour to \$9.50 per hour.

NOW, THEREFORE, BE IT RESOLVED, that the City of Columbia Heights establishes new wage ranges for non-unionized seasonal/temporary Recreation positions as indicated on Schedule III, which is attached and on file in the office of the City Manager; and

BE IT FURTHER RESOLVED that such schedule be effective August 1, 2016.

Passed this 11<sup>th</sup> day of July, 2016.

Offered by:

Seconded by:

Roll Call:

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Gary L. Peterson, Mayor

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Katie Bruno  
Council Secretary/City Clerk

**2016  
RECREATION SEASONALS  
SCHEDULE III**

Movement through the wage schedule is contingent upon satisfactory performance as adjudged by the Employer.

<b><u>POSITION</u></b>	<b><u>ENTRY</u></b>	<b><u>6 MONTHS</u></b>	<b><u>1 YEAR</u></b>	<b><u>2 YEARS</u></b>	<b><u>3 YEARS</u></b>	<b><u>4 YEARS</u></b>
Summer Playground Asst.	\$9.50	\$9.70	\$9.91	\$10.11	\$10.32	\$10.49
After School Instructor	\$9.50	\$9.70	\$9.91	\$10.11	\$10.32	\$10.49
Trip Chaperone	\$9.50	\$9.70	\$9.91	\$10.11	\$10.32	\$10.49
Facility Supervisor	\$12.41	\$13.03	\$13.65	\$14.27	\$14.89	\$15.51
Baseball Umpire						
-House League (Youth)	\$20/game					
-Traveling (Plate)	\$45/game					
-Traveling (Base)	\$40/game					
Soccer Officials (Youth)	\$25/game					
Softball Umpires (Youth)						
-Youth Slow Pitch	\$20/game					
-Youth Fast Pitch	\$30/game					
Basketball Officials (Youth)						
- House League	\$20/game					
- Traveling	\$30/game					
Football Officials (Youth)	\$40/game					
Adult Athletics Umpire/Officials (Softball, Basketball, Volleyball, & Football)	\$30/game					
Scorekeeper (per game)	\$9.50	\$9.70	\$9.91	\$10.11	\$10.32	\$10.49
Performing Arts Instructor (Gymnastics, Cheerleading, and Ballet)	\$10.49	\$10.74	\$10.98	\$11.23	\$11.97	\$12.34
Summer Playground Supervisor	\$10.49	\$10.74	\$10.98	\$11.23	\$11.97	\$12.34
Trip Supervisor	\$10.49	\$10.74	\$10.98	\$11.23	\$11.97	\$12.34
Program Instructor		(Market rate--contingent upon approval of the Recreation Director and the Assistant to the City Manager.)				
Coaching/Teaching Stipend	\$200/season					

DRAFT - Proposed Effective Date: 8/1/16



<b>AGENDA SECTION</b>	<b>CONSENT</b>
<b>ITEM NO.</b>	7E
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	ESTOPPEL AMENDMENT TO PURCHASE AGREEMENTS FOR SOLAR POWER AT MUNICIPAL SERVICE CENTER, PUBLIC SAFETY AND LIBRARY		
<b>DEPARTMENT:</b>	Public Works	<b>CITY MANAGER'S APPROVAL:</b>	
<b>BY/DATE:</b>	Kevin Hansen, Eric Hanson / July 7, 2016	<b>BY/DATE:</b>	

**BACKGROUND:**

At the council meeting on November 17, 2015 the City Council approved four Power Purchase Agreements (PPA) to add solar panels for electrical power generation at four (4) public buildings: Top Valu 1 liquor store, Public Safety Building, Municipal Service Center, and the new Library.

A PPA was signed between the City and New Energy Equity. This amendment is notice to the City that New Energy Equity is selling the PPA to AEP OnSite Partners LLC of Delaware.

As stated in the PPA, this amendment is acknowledgement from the City that the PPA has a different owner. A few minor date changes have also been added to this amendment due to the current timeline as to when the system will be producing electricity. The current startup date would force the owner to remove the system during the winter. This date has been extended by 90 days so, if the system needs to be removed, it can be done safely. There will be no changes to the length of the PPA or to the payment schedule.

**STAFF RECOMMENDATION:**

The City Attorney has reviewed the attached amendment. Staff recommends approval of the Estoppel Amendment to the Solar PPA for the Public Safety Building, Municipal Service Center and Library.

**RECOMMENDED MOTION(S):** Move to approve the Estoppel Amendment to the Solar Power Purchase Agreement dated November 17, 2015 with New Energy Equity for the Public Safety Building, Municipal Service Center and Library.

Attachment: Apex Request Memo  
 Estoppel Amendment to Solar Power Purchase Agreement with New Energy Equity



Mark Rasmussen, PE  
612-581-0219

**To:** Mark Rasmussen <[markr@apex-co.us](mailto:markr@apex-co.us)>

**Subject:** Estoppel Agreement - CH

**Importance:** High

Mark:

AEP has provided the following explanations for the first 3 points on the estoppel agreement they requested to be removed in hopes that we can keep these points in the agreement in some fashion. This is strictly driven by the fact that they want to be a good partner and have a good relationship with the City and they feel some of the timelines may put that relationship in jeopardy. Can you run these by the City and see what they say.

- A. Section 12.1.6 governs the removal of the system after the completion of the contract. While AEP and the City certainly hope that the PPA will be extended or Columbia Heights will take over the system at the end of the term, if removal would be necessary, it would be at the end of the term of the PPA which would likely be in the middle of winter and it may not be possible to get all three systems off in 90 days. AEP would be willing to compromise and put "as quickly as possible, but no later than 180 days".
- B. Section 12.1.6 governs the time that a force majeure event can occur before either party can decide they no longer want to be in the contract. AEP feels as though this provides benefits to both parties, and further believes that a force majeure event is more likely to impact the City than AEP. AEP hopes that either this is acceptable or maybe there is somewhere to meet in the middle to give each party a bit more time.
- C. Section 15.2.2 governs the removal of the system in the event of default. AEP understands that this only covers an event of default from AEP, but also feels as though it is fair to give them time to remove the system in the event of poor weather conditions or unforeseen delays. Removing the system the right way and safely takes a bit of time, but if very important to preserve the condition of the roof and the surrounding areas. AEP would be willing to compromise and put "as quickly as possible, but no later than 180 days".

I know we are waiting on City council approval in a week and a half, so please run this by them and let me know what they think. I would be happy to have a call if necessary.

Thanks.

Matt



## CONSENT, AMENDMENT AND ESTOPPEL AGREEMENT

This CONSENT, AMENDMENT AND ESTOPPEL AGREEMENT, dated as of June \_\_\_\_, 2016 (this “Agreement”), is made by the City of Columbia Heights, a Minnesota municipal corporation (the “City”) and New Energy Equity, LLC, a Maryland limited liability company (“Developer”), for the benefit of AEP OnSite Partners, LLC, a Delaware limited liability company (“OnSite”).

### RECITALS

A. The City and Developer entered into that certain Solar Photovoltaic Power Purchase Agreement, dated as of February 5, 2016 (the “PPA”).

B. Pursuant to a Purchase Agreement (the “Purchase Agreement”) between Developer and OnSite, OnSite will acquire all of Developer’s right, title and interest in and to the PPA, and will assume all of Developer’s obligations thereunder as of the date of the Purchase Agreement.

C. The City and Developer are executing and delivering this Agreement as a material inducement to OnSite entering into the Purchase Agreement.

### AGREEMENT

1. Consent. The City hereby unconditionally and irrevocably consents to the assignment by Developer of its right, title and interest in, and the assumption by OnSite of Developer’s obligations under, the PPA pursuant to the Purchase Agreement.

2. Amendments to PPA. The PPA is hereby amended as follows:

- a. Section 12.1.6 is amended by replacing “ninety (90)” with “as quickly as possible, but no later than one hundred eighty (180).”
- b. Section 14.4 is amended by replacing “forty-five (45)” with “three hundred sixty (360).”
- c. Section 15.2.2 is amended by replacing “within thirty (30) days after such termination” with “as quickly as possible, but no later than within one hundred eighty (180) days after such termination.”
- d. Section 16.1.1(b) is amended by replacing “occurrence form” with “claims-made form.”
- e. Section 16.3 is amended by deleting “certified copies of” from the first sentence thereof.

3. Estoppel. To induce OnSite to enter into the Purchase Agreement, the City hereby certifies and agrees as follows:

a. PPA. The PPA (i) attached hereto as Exhibit A is a true, correct and complete copy thereof as of the date hereof, (ii) was duly authorized, executed and delivered by the City, (iii) is in full force and effect and is a valid and binding obligation of the City, enforceable in accordance with its terms, (iv) except as provided in this Agreement, has not been amended or modified, and (v) constitutes the entire PPA.

b. Consents and Approvals. The City has received the third party authorizations referred to in Section 3.1.2 of the PPA, and there is no mortgage or other lien or lease burdening the Premises as referenced in Section 3.1.2 (nor is any such mortgage, lien or lease currently contemplated).

c. No Claims. The City has no claims against Developer under, relating to the subject matter of, or arising out of the PPA.

d. No Default. Neither the City, nor to the City's knowledge Developer, (i) is in breach of or default under the PPA, or (ii) anticipates to be in breach or default under the PPA.

e. Reliance. The City acknowledges that Purchaser and its affiliates are relying on the estoppel provisions of this Section 3.

f. Power and Authority. The City has the requisite power, authority and capacity to execute and deliver this Agreement and this Agreement has been duly and validly executed and delivered by the City.

g. Performance. The City knows of no reason why it cannot perform its obligations under the PPA.

4. Governing Law. This Agreement and the legal relations between the parties hereunder shall be governed by and construed in accordance with the laws of the State of Minnesota, without regard to principles of conflicts of laws that would direct the application of the laws of another jurisdiction.

5. Validity. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provisions of this Agreement, each of which will remain in full force and effect. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement will nevertheless remain in full force and effect for so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to either party hereto.

6. Electronic Signatures. The delivery of copies of this Agreement and of the signature page by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means, will constitute effective execution and delivery of this Agreement and may be used in lieu of the original Agreement for all purposes. The City's signature transmitted by facsimile or other electronic means will be deemed to be its original signatures for all purposes.

IN WITNESS WHEREOF, the undersigned has duly executed or caused this Agreement to be duly executed on the date first written above.

**The City of Columbia Heights, a  
Minnesota municipal corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**New Energy Equity, LLC, a Maryland  
limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

[Attached]



<b>AGENDA SECTION</b>	<b>CONSENT</b>
<b>ITEM NO.</b>	7F
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	Ratification of the Development Contract for Plat of Huset Park Senior Living		
<b>DEPARTMENT:</b>	Community Development	<b>CITY MANAGER'S APPROVAL:</b>	
<b>BY/DATE:</b>	Keith Dahl, July 6, 2016	<b>BY/DATE:</b>	

**BACKGROUND:**

In 2014, the City Council approved the Site Plan and the Preliminary Plat for the Huset Park Senior Living development project located at the vacant site directly northeast of the University Avenue NE and 37th Avenue NE intersection. The project consists of a 191 unit, independent senior living apartment that will provide affordable housing for senior residents earning no more than 60% of the Area Median Income (AMI). The Final Plat and a Development Contract were both approved January 11, 2016; however the Redeveloper requested revisions to the completion dates on the Development Contract due to financial delays.

The Redeveloper's financial delays stem from the general market conditions present with affordable housing. In order for the Huset Park Senior Living Apartments to be considered affordable housing, a minimum of 55% of the project needs to be funded by tax credit bonds. However, the market for tax credit bonds has been depleted, which has delayed the Redeveloper to meet the minimum financial requirement for this project. More tax credit bonds become available August 1, 2016 for the Redeveloper to meet the minimum financial requirement.

Attached for review are the proposed completion date revisions found in Exhibit B of the Development Contract. In addition to the completion date revisions, the letter of credit expiration date will consequently need to be revised as well. Revisions to the letter of credit expiration date are found in Article 8, Section 8.1 of the Development Contract. All date revisions are marked by a strikethrough for a deletion and an underline for an addition.

If approved, the Developer intends to begin construction by March 1, 2017.

**STAFF RECOMMENDATION:**

Staff recommends approval of the revised completion dates and authorizing the execution of the Development Contract for Plat of Huset Park Senior Living.

**RECOMMENDED MOTION(S):**

**Motion:** Move to waive the reading of Resolution No. 2016-62, there being ample copies available to the public.

**Motion:** Move to adopt Resolution 2016-62, a resolution ratifying approval of a revised Development Contract for Plat of Huset Park Senior Living, Anoka County MN, between the City of Columbia Heights and Columbia Heights Leased Housing Associates I, LLLP.

**ATTACHMENTS:**

- Resolution 2016-62 (1 page)
- Development Contract (25 pages)

**RESOLUTION NO. 2016-62**

A resolution of the City Council of Columbia Heights, Minnesota, Ratifying Approval of a Revised Development Contract for Plat of Huset Park Senior Living, Anoka County MN, Between the City of Columbia Heights and Columbia Heights Leased Housing Associates I, LLLP.

**WHEREAS**, the City Council of Columbia Heights (the “City Council”) previously approved the Development Contract for Plat of Huset Park Senior Living (the “Contract”) on January 11, 2016, subject to modifications that do not alter the Contract; and

**WHEREAS**, the Contract has not been fully executed; and

**WHEREAS**, Columbia Heights Leased Housing Associates I, LLLP (the “Redeveloper”) has proposed to revise Section 8.1 and Exhibit B of the Contract to extend the letter of credit expiration date and completion dates due to financial delays. These revisions constitute a modification to the Contract, and as such requires the approval by the City Council; and

**WHEREAS**, the City Council has reviewed he Contract as proposed to be revised and finds that the execution thereof and performance of the City’s obligations thereunder are in the best interest for the City and its residents; and

**NOW, THEREFORE BE IT RESOLVED** that the City Council authorizes the Mayor and the City Manager to execute the Development Contract for Plan of Huset Park Senior Living, Anoka County MN with Columbia Heights Leased Housing Associates I, LLLP on behalf of the City of Columbia Heights.

**ORDER OF THE CITY COUNCIL**

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2016

Offered by:

Seconded by:

Roll Call:

\_\_\_\_\_  
Gary L. Peterson, Mayor

Attest:

\_\_\_\_\_  
Katie Bruno, City Clerk

DEVELOPMENT CONTRACT FOR  
PLAT OF  
Huset Park Senior Living  
Anoka County, Minnesota

INDEX TO CITY OF COLUMBIA HEIGHTS  
DEVELOPMENT CONTRACT FOR  
Huset Park Senior Living, Anoka County, Minnesota

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- 1.4 Plat
- 1.5 Development Plans
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- 1.7 Council
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- 1.9 Director of PWD
- 1.10 County
- 1.11 Developer Improvements
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- 1.14 Force Majeure
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- C. Present Compliance With Laws
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**EXHIBIT B – DEVELOPER PUBLIC IMPROVEMENTS**

**EXHIBIT C – ESCROW AND PARK DEDICATION CALCULATION**

**CITY OF COLUMBIA HEIGHTS**  
**DEVELOPMENT CONTRACT FOR**  
**HUSET PARK SENIOR LIVING**

**THIS AGREEMENT, made and entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF COLUMBIA HEIGHTS, a municipality of the State of Minnesota, (hereinafter referred to as the CITY), and COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES I, LLLP, (hereinafter referred to as the OWNER and DEVELOPER) identified herein.**

**WHEREAS,** the DEVELOPER has applied to the CITY for approval of the preliminary and final PLAT;

**WHEREAS,** the CITY has approved the final PLAT subject to the following conditions:

1. That the DEVELOPER enter into this DEVELOPMENT CONTRACT, which contract defines the work which the DEVELOPER undertakes to complete within the PLAT; AND
2. The DEVELOPER shall provide an irrevocable letter of credit, or cash deposit, in the amount and with conditions satisfactory to the CITY, providing for the actual construction and installation of such improvements within the period specified by the CITY.

**WHEREAS,** the DEVELOPER has filed Three (3) complete sets of the DEVELOPMENT PLANS with the CITY;

**WHEREAS,** the DEVELOPMENT PLANS have been prepared by a registered professional engineer and have been submitted to and approved by the DIRECTOR OF THE PWD.

**NOW, THEREFORE,** subject to the terms and conditions of this DEVELOPMENT CONTRACT and in reliance upon the representations, warranties and covenants of the parties herein contained, the CITY, OWNER and DEVELOPER agree as follows:

**ARTICLE L**  
**DEFINITIONS**

- 1.1 **TERMS.** The following terms, unless elsewhere defined specifically in the DEVELOPMENT CONTRACT, shall have the following meanings as set forth below.
- 1.2 **CITY.** “CITY” means the City of Columbia Heights, a Minnesota municipal corporation.
- 1.3 **DEVELOPER: OWNER, BUILDER.** “DEVELOPER - OWNER” means **Columbia Heights Leased Housing Associates I, LLLP**, a Minnesota Limited Liability Limited Partnership.
- 1.4 **PLAT.** “PLAT” means the plat of Huset Park Senior Living, in the City of Columbia Heights, Anoka County, Minnesota.
- 1.5 **DEVELOPMENT PLANS.** “DEVELOPMENT PLANS” means all those plans, drawings, specifications and surveys identified and checked on the attached EXHIBIT ‘A,’ and hereby incorporated by reference and made a part of this DEVELOPMENT CONTRACT.
- 1.6 **DEVELOPMENT CONTRACT.** “DEVELOPMENT CONTRACT” means this instant contract by and among the CITY, OWNER and DEVELOPER.
- 1.7 **COUNCIL.** “COUNCIL” means the Council of the City of Columbia Heights.
- 1.8 **PWD.** “PWD” means the Public Works Department of the City of Columbia Heights.
- 1.9 **DIRECTOR OF PWD.** “DIRECTOR OF PWD” means the Director of Public Works Department of the City of Columbia Heights and his delegates.
- 1.10 **COUNTY.** “COUNTY” means Anoka County, Minnesota.
- 1.11 **DEVELOPER IMPROVEMENTS.** “DEVELOPER IMPROVEMENTS” means and includes all the improvements identified on the attached EXHIBIT ‘B.’
- 1.12 **DEVELOPER PUBLIC IMPROVEMENTS.** “DEVELOPER PUBLIC IMPROVEMENTS” means and includes, jointly and severally, all the improvements identified and checked on the attached Exhibit B that are further labeled “public”. DEVELOPER PUBLIC IMPROVEMENTS are improvements to be constructed by the DEVELOPER within public right-of-way and which are to be approved and later accepted by the CITY. DEVELOPER PUBLIC IMPROVEMENTS are part of DEVELOPER IMPROVEMENTS.

- 1.13 DEVELOPER DEFAULT.** “DEVELOPER DEFAULT” means and includes, jointly and severally, any of the following or any combination thereof:
- a) failure by the DEVELOPER to timely pay the CITY any money required to be paid under the DEVELOPMENT CONTRACT;
  - b) failure by the DEVELOPER to timely construct the DEVELOPER PUBLIC IMPROVEMENTS according to the DEVELOPMENT PLANS and the CITY standards and specifications;
  - c) failure by the DEVELOPER to observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this DEVELOPMENT CONTRACT;
  - d) breach of the DEVELOPER WARRANTIES.
- 1.14 FORCE MAJEURE.** “FORCE MAJEURE” means acts of God, including, but not limited to floods, ice storms, blizzards, tornadoes, landslides, lightning and earthquakes (but not including reasonably anticipated weather conditions for the geographic area), riots, insurrections, war or civil disorder affecting the performance of work, blockades, power or other utility failures, and fires or explosions.
- 1.15 DEVELOPER WARRANTIES.** “DEVELOPER WARRANTIES” means that the Developer hereby warrants and represents the following:
- A. **AUTHORITY.** Developer is organized and in good standing under the laws of the State of Minnesota.  
  
DEVELOPER has the right, power, legal capacity and authority to enter into and perform its obligations under this DEVELOPMENT CONTRACT, and no approvals or consents of any persons are necessary in connection with the authority of DEVELOPER to enter into and perform its obligations under this DEVELOPMENT CONTRACT.
  - B. **NO DEFAULT.** DEVELOPER is not in default under any lease, contract or agreement to which it is a party or by which it is bound which would materially affect performance under this DEVELOPMENT CONTRACT. DEVELOPER is not a party to or bound by any mortgage, lien, lease, agreement, instrument, order, judgment or decree which would prohibit the execution or performance of this DEVELOPMENT CONTRACT by DEVELOPER or prohibit any of the transactions provided for in this DEVELOPMENT CONTRACT.
  - C. **PRESENT COMPLIANCE WITH LAWS.** DEVELOPER has complied with and is not in violation of applicable federal, state or local

statutes, laws, and regulations (including, without limitation, permits and licenses and any applicable zoning, environmental or other law, ordinance or regulation) affecting the PLAT and the DEVELOPMENT PLANS and the DEVELOPER IMPROVEMENTS; and DEVELOPER is not aware of any pending or threatened claim of any such violation.

- D. **CONTINUING COMPLIANCE WITH LAWS.** DEVELOPER will comply with all applicable federal, state and local statutes, laws and regulations (including, without limitation, permits and licenses and any applicable zoning, environmental or other law, ordinance or regulation) affecting the PLAT and the DEVELOPMENT PLANS and the DEVELOPER IMPROVEMENTS.
- E. **NO LITIGATION.** To the best of DEVELOPER'S knowledge, there is no suit, action, arbitration or legal, administrative or other proceeding or governmental investigation pending, or threatened against or affecting DEVELOPER, except as disclosed in writing to the City, or the PLAT, or the DEVELOPMENT PLANS or the DEVELOPER IMPROVEMENTS. DEVELOPER is not in material default with respect to any order, writ, injunction or decree of any federal, state, local or foreign court, department, agency or instrumentality.
- F. **FULL DISCLOSURE.** None of the representatives and warranties made by DEVELOPER or made in any exhibit hereto or memorandum or writing furnished or to be furnished by DEVELOPER or on its behalf contains or will contain any untrue statement of material fact or omit any material fact the omission of which would be misleading.
- G. **TWO YEAR WARRANTY ON PROPER WORK AND MATERIALS.** The DEVELOPER warrants all work required to be performed by it under this DEVELOPMENT CONTRACT against poor material and faulty workmanship for a period of two (2) years after its completion and acceptance by the CITY. The DEVELOPER shall be solely responsible for all costs of performing repair work required by the CITY within thirty (30) days of the repair work being completed.
- H. **OBTAINING PERMITS.** The DEVELOPER shall obtain in a timely manner and pay for all required permits, licenses and approvals, and shall meet, in a timely manner, all requirements of all applicable, local, state and federal laws and regulations which must be obtained or met before the DEVELOPER IMPROVEMENTS may be lawfully constructed.

1.16 **CITY WARRANTIES.** "CITY WARRANTIES" means that the CITY hereby warrants and represents as follows:





mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

**ARTICLE 2**  
**DEVELOPER IMPROVEMENTS**

- 2.1 DEVELOPER IMPROVEMENTS.** The DEVELOPER shall install, at its own cost, the DEVELOPER IMPROVEMENTS in accordance with the DEVELOPMENT PLANS. The DEVELOPER IMPROVEMENTS shall be completed by the dates shown on EXHIBIT ‘B,’ except as completion dates are extended by subsequent resolution of the COUNCIL. Failure of the CITY to promptly take action to enforce this DEVELOPMENT CONTRACT after expiration of time in which the DEVELOPER IMPROVEMENTS are to be completed shall not waive or release any rights of the CITY; the CITY may take action at any time thereafter, and the terms of this contract shall be deemed to be automatically extended until such time as the DEVELOPER IMPROVEMENTS are completed to the CITY’s reasonable satisfaction.
- 2.2 BOULEVARD AND AREA RESTORATION.** The DEVELOPER shall lay cultured sod or hydro seed in all boulevards within 21 days of the completion of street related improvements and restore all other areas disturbed by the development grading operation in accordance with the approved erosion control plan, over the entire PLAT.
- 2.3 STREET MAINTENANCE.** The DEVELOPER shall clear, on a daily basis, any soil, earth or debris from the streets and wetlands within or adjacent to this PLAT resulting from the grading or building on the land within the PLAT by the DEVELOPER or its agents, and shall restore to the CITY’s specifications any gravel base contaminated by mixing construction or excavation debris, or earth in it, and repair to the CITY’s specifications any damage to bituminous surfacing resulting from the use of construction equipment.
- 2.4 OCCUPANCY.** Unless otherwise agreed to by the City, no certificate of occupancy and no occupancy of any building in the PLAT shall occur until the DEVELOPER IMPROVEMENTS have been installed. Unless otherwise agreed to by the City, this provision excludes Site Landscaping and Site Street Lighting.
- 2.5 APPROVAL OF CONTRACTORS AND ENGINEER.** Any contractor or engineer preparing plans and specifications selected by the DEVELOPER to design, construct or install any DEVELOPER PUBLIC IMPROVEMENTS must be approved in writing by the DIRECTOR OF PWD, which approval shall not be unreasonably withheld; provided however that the CITY hereby specifically approves Loucks Engineers, BKV Group, Benson-Orth, Eagle Building Company, Stonebridge Construction, Stevens Construction Corp., Big-D Construction Corp. and Weis Builders for such purposes.

- 2.6 CONSTRUCTION.** The construction, installation, materials and equipment related to DEVELOPER PUBLIC IMPROVEMENTS shall be in accordance with the DEVELOPMENT PLANS. The DEVELOPER shall cause the contractors to furnish the PWD with a written schedule of proposed operations, subcontractors and material suppliers, at least five (5) days prior to commencement of construction work. The DEVELOPER shall notify the CITY in writing, coordinate and hold a pre-construction conference with all affected parties at least three (3) days prior to starting construction of any DEVELOPER PUBLIC IMPROVEMENTS.
- 2.7 INSPECTION.** The PWD or its designated representative shall periodically inspect the work installed by the DEVELOPER, its contractors, subcontractors or agents. The DEVELOPER shall notify the PWD two (2) working days prior to the commencement of the laying of utility lines, subgrade preparation, the laying of gravel base for street construction or any other improvement work which shall be subsequently buried or covered to allow the CITY an opportunity to inspect such improvement work. Upon receipt of said notice, the City shall have a reasonable time, not to be less than three (3) working days, to inspect the improvements. Failure to notify the CITY to allow it to inspect said work shall result in the CITY'S right pursuant to Article 8 to withhold the release of any portion of the escrow amount resulting from work being performed without the opportunity for adequate CITY inspection.
- 2.8 FAITHFUL PERFORMANCE OF CONSTRUCTION CONTRACTS.** The DEVELOPER shall fully and faithfully comply with all terms of any and all contracts entered into by the DEVELOPER for the installation and construction of all of the DEVELOPER PUBLIC IMPROVEMENTS; and the DEVELOPER shall obtain lien waivers. Within thirty (30) days after FORMAL NOTICE, the DEVELOPER agrees to repair or replace, as directed by the CITY and at the DEVELOPER'S sole cost and expense, any work or materials that within two (2) years after acceptance of the DEVELOPER PUBLIC IMPROVEMENTS by the CITY becomes defective in the commercially reasonable judgment of the City.
- 2.9 CITY ACCEPTANCE.** The DEVELOPER shall give FORMAL NOTICE to the CITY within thirty (30) days once DEVELOPER PUBLIC IMPROVEMENTS have been completed in accordance with this DEVELOPMENT CONTRACT and the ordinances, CITY standards and specifications and the DEVELOPMENT PLANS. The CITY shall then inspect the DEVELOPER PUBLIC IMPROVEMENTS and notify the DEVELOPER of any DEVELOPER PUBLIC IMPROVEMENTS that do not so conform. Upon compliance with this DEVELOPMENT CONTRACT and CITY ordinances, standards and specifications, and the DEVELOPMENT PLANS, the DEVELOPER PUBLIC IMPROVEMENTS shall become the property of the CITY upon FORMAL NOTICE of acceptance by the CITY. After acceptance, the DEVELOPER PUBLIC IMPROVEMENTS become the property of the CITY. If the DEVELOPER PUBLIC IMPROVEMENTS do not conform,

FORMAL NOTICE shall be given to the DEVELOPER of the need for repair or replacement.

**ARTICLE 3**  
**RESPONSIBILITY FOR COSTS**

- 3.1 **DEVELOPER IMPROVEMENT COSTS.** The DEVELOPER shall pay for the DEVELOPER IMPROVEMENTS; that is, all costs of persons doing work or furnishing skills, tools, machinery or materials, or insurance premiums or equipment or supplies and all just claims for the same; and the CITY shall be under no obligation to pay the contractor or any subcontractor any sum whatsoever on account thereof, whether or not the CITY shall have approved the contract or subcontract.
  
- 3.2 **ENFORCEMENT COSTS.** The DEVELOPER shall pay the CITY for costs incurred in the enforcement of this DEVELOPMENT CONTRACT, including engineering and attorneys' fees.
  
- 3.3 **TIME OF PAYMENT.** The DEVELOPER shall pay all bills from the CITY within thirty (30) days after billing. Bills not paid within thirty (30) days shall accrue interest at the rate of 6% per year.

**ARTICLE 4**  
**DEVELOPER WARRANTIES**

- 4.1 **STATEMENT OF DEVELOPER WARRANTIES.** The Developer hereby makes and states the DEVELOPER WARRANTIES.

**ARTICLE 5**  
**CITY WARRANTIES**

- 5.1 **STATEMENT OF CITY WARRANTIES.** The City hereby makes and states the CITY WARRANTIES.

**ARTICLE 6**  
**INDEMNIFICATION**

- 6.1 **INDEMNIFICATION OF THE CITY.** Except for any damages or claims that arise solely from the willful misconduct or gross negligence of the CITY, the DEVELOPER shall indemnify, defend and hold the CITY its COUNCIL, agents, employees, attorneys and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including

interest, penalties and attorneys' fees, that the CITY incurs or suffers, which arise out of, results from or relates to:

- a) breach by the DEVELOPER of the DEVELOPER WARRANTIES;
- b) failure of the DEVELOPER to timely construct the DEVELOPER PUBLIC IMPROVEMENTS according to the DEVELOPMENT PLANS and the CITY ordinances, standards and specifications;
- c) failure by the DEVELOPER to observe or perform any covenant, conditions, obligation or agreement on its part to be observed or performed under this DEVELOPMENT CONTRACT;
- d) failure by the DEVELOPER to pay contractors, subcontractors, laborers, or materialmen;
- e) failure by the DEVELOPER to pay for materials;
- f) failure to obtain the necessary permits and authorizations to construct the DEVELOPER PUBLIC IMPROVEMENTS;
- g) construction of the DEVELOPMENT PUBLIC IMPROVEMENTS.

## **ARTICLE 7** **CITY REMEDIES UPON DEVELOPER DEFAULT**

**7.1 CITY REMEDIES.** If a DEVELOPER DEFAULT occurs, that is not caused by FORCE MAJEURE, the CITY shall give the DEVELOPER FORMAL NOTICE of the DEVELOPER DEFAULT, specifying the nature of the asserted default, and the DEVELOPER shall have to cure the DEVELOPER DEFAULT within a thirty (30) days cure period, hereinafter defined as "CURE PERIOD". Said CURE PERIOD may be extended by the CITY for a reasonable period of time to be determined by the DIRECTOR OF PWD, at his sole discretion, provided that the DEVELOPER submits, to the CITY using the FORMAL NOTICE procedures of Section 1.17 within the CURE PERIOD, a reasonable plan or contract bid that demonstrates that it is impractical to cure the DEVELOPER DEFAULT within the CURE PERIOD. If the DEVELOPER, after FORMAL NOTICE to it by the CITY, does not cure the DEVELOPER DEFAULT within the CURE PERIOD or DIRECTOR OF PWD approved extension thereof, then the CITY may avail itself of any remedy afforded by law and any of the following remedies.

- a) the CITY may specifically enforce this DEVELOPMENT CONTRACT;
- b) the CITY may suspend any work improvement or obligation to be performed by the CITY;

- c) the CITY may collect on the irrevocable letter of credit or cash deposit;
- d) the CITY may deny building and occupancy permits for buildings within the PLAT;
- e) the CITY may, at its sole option, perform the work or improvements to be performed by the DEVELOPER, in which case the DEVELOPER shall within thirty (30) days after written billing by the CITY reimburse the CITY for any costs and expenses incurred by the CITY. In the alternative, the CITY may in whole or in part, specially assess any of the costs and expenses incurred by the CITY; and the DEVELOPER and OWNER hereby waive any and all procedural and substantive objections to the installation and construction of the work and improvements and the special assessment resulting therefrom, including but not limited to notice and hearing requirement and any claim that the special assessments exceed benefit to the PLAT. The DEVELOPER and OWNER hereby waive any appeal rights up to the amount indicated on EXHIBIT 'C' pursuant to Minn. Stat. 429.081.

Upon an event of default, the limited partners of the OWNER shall have the right to cure any such default and the CITY shall accept such default as if cured by the OWNER itself.

- 7.2 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.** In the event any agreement contained in this DEVELOPMENT CONTRACT is breached by the DEVELOPER and thereafter waived in writing by the CITY, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder. All waivers by the CITY must be in writing.
- 7.3 NO REMEDY EXCLUSIVE.** No remedy herein conferred upon or reserved to the CITY shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the DEVELOPMENT CONTRACT or now or hereafter existing at law or in equity or by statute; provided however that the CITY shall not have the power to exercise both the remedy provided by Section 7.1(c) and, concurrently or sequentially, the remedy provided by Section 7.1(e), to the extent that the remedy in Section 7.1(c) provides reimbursement to the City for any costs and expenses incurred by the City. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle

the CITY to exercise any remedy reserved to it, it shall not be necessary to give notice, other than the FORMAL NOTICE.

- 7.4 **EMERGENCY.** Notwithstanding the requirement relating to FORMAL NOTICE to the DEVELOPER in case of a DEVELOPER DEFAULT and notwithstanding the requirement relating to giving the DEVELOPER a thirty (30) day period to cure the DEVELOPER DEFAULT, in the event of an emergency as determined by the Director of PWD, resulting from the DEVELOPER DEFAULT, the CITY may perform the work or improvement to be performed by the DEVELOPER without giving any notice or FORMAL NOTICE to the DEVELOPER and without giving the DEVELOPER a forty-eight (48) hour period to cure the DEVELOPER DEFAULT. In such case, the DEVELOPER shall within thirty (30) days after written billing by the CITY reimburse the CITY for any and all costs incurred by the CITY. In the alternative, the CITY may, in whole or in part, specially assess the costs and expenses incurred by the CITY; and the DEVELOPER and OWNER hereby waive any and all procedural and substantive objections to the installation and construction of the work and improvements and the special assessments resulting there from, including but not limited to notice and hearing requirements and any claim that the special assessments exceed benefit to the PLAT. The DEVELOPER and OWNER hereby waive any appeal rights up to the amount indicated on EXHIBIT 'C' pursuant to Minn. Stat. 429.081.

## **ARTICLE 8** **ESCROW DEPOSIT**

- 8.1 **ESCROW REQUIREMENT.** Contemporaneously herewith, the DEVELOPER shall deposit with the CITY an irrevocable letter of credit, or cash deposit for the amounts set forth on EXHIBIT 'C.'

All cost estimates shall be acceptable to the DIRECTOR OF PWD. The total escrow amount was calculated as shown on the attached Exhibit C. The bank and form of the irrevocable letter of credit, or cash deposit shall be subject to approval by the City Finance Director and City Attorney and shall continue to be in full force and effect until released by the CITY pursuant to Section 8.2 below. The irrevocable letter of credit shall be for a term ending ~~December 31, 2017~~ September 30, 2018. In the alternative, the letter of credit may be for a one year term provided it is automatically renewable for successive one year periods from the present or any future expiration dates with a final expiration date of ~~December 31, 2017~~ September 30, 2018, and further provided that the irrevocable letter of credit states that at least sixty (60) days prior to the expiration date the bank will notify the City if the bank elects not to renew for an additional period. The irrevocable letter of credit shall secure compliance by the DEVELOPER with the terms of this DEVELOPMENT CONTRACT. The CITY may draw down on the irrevocable letter of credit or cash deposit, without any further notice than that

provided in Section 7.1 relating to a DEVELOPER DEFAULT, for any of the following reasons:

- a) a DEVELOPER DEFAULT; or
- b) upon the CITY receiving notice that the irrevocable letter of credit will be allowed to lapse before ~~December 31, 2017~~ September 30, 2018.

With CITY approval, the irrevocable letter of credit or cash deposit may be reduced pursuant to Section 8.2 from time to time as financial obligations are paid.

- 8.2 ESCROW RELEASE AND ESCROW INCREASE; DEVELOPER IMPROVEMENTS.** Periodically, upon the DEVELOPER's written request and upon completion by the DEVELOPER and acceptance by the CITY of any specific DEVELOPER PUBLIC IMPROVEMENTS, ninety percent (90%) of that portion of the irrevocable letter of credit, or cash deposit covering those specific completed improvements only shall be released. The final ten percent (10%) of that portion of the irrevocable letter of credit, or cash deposit, for landscaping improvements shall be held until acceptance by the CITY and expiration of the warranty period under Section 1.15 hereof; in the alternative, the DEVELOPER may post a bond satisfactory to the CITY with respect to the final ten percent (10%).

If it is determined by the CITY that the DEVELOPMENT PLANS were not strictly adhered to, or that work was done without CITY inspection, the CITY may require, as a condition of acceptance, that the DEVELOPER post an irrevocable letter of credit, or cash deposit equal to 125% of the estimated amount necessary to correct the deficiency or to protect against deficiencies arising there from. Said additional irrevocable letter of credit, or cash deposit, shall remain in force for such time as the CITY deems reasonably necessary, not to exceed two (2) years. In the event that work, which is concealed, was done without permitting CITY inspection, then the CITY may, in the alternative, require the concealed condition to be exposed for inspection purposes.

## **ARTICLE 9** **MISCELLANEOUS**

- 9.1 CITY'S DUTIES.** The terms of this DEVELOPMENT CONTRACT shall not be considered an affirmative duty upon the CITY to complete any DEVELOPMENT IMPROVEMENTS.
- 9.2 NO THIRD PARTY RECOURSE.** Third parties shall have no recourse against the CITY under this DEVELOPMENT CONTRACT.

- 9.3 VALIDITY.** If any portion, section, subsection, sentence, clause, paragraph or phrase of this DEVELOPMENT CONTRACT is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this DEVELOPMENT CONTRACT.
- 9.4 RECORDING.** The PLAT shall be recorded with the COUNTY Recorder and the DEVELOPER shall provide and execute any and all documents necessary to implement the recording.
- 9.5 BINDING AGREEMENT.** The parties mutually recognize and agree that all terms and conditions of this recordable DEVELOPMENT CONTRACT shall run with the PLAT and shall be binding upon the heirs, successors, administrators and assigns of the DEVELOPER.
- 9.6 CONTRACT ASSIGNMENT.** The DEVELOPER may not assign this DEVELOPMENT CONTRACT without the written permission of the CITY.
- 9.7 AMENDMENT AND WAIVER.** The parties hereto may by mutual written agreement amend this DEVELOPMENT CONTRACT in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this DEVELOPMENT CONTRACT or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this DEVELOPMENT CONTRACT, waive compliance by another with any of the covenants contained in this DEVELOPMENT CONTRACT and performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this DEVELOPMENT CONTRACT. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this DEVELOPMENT CONTRACT shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.
- 9.8 GOVERNING LAW.** This DEVELOPMENT CONTRACT shall be governed by and construed in accordance with the laws of the State of Minnesota.
- 9.9 COUNTERPARTS.** This DEVELOPMENT CONTRACT may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.
- 9.10 HEADINGS.** The subject headings of the paragraphs and subparagraphs of this DEVELOPMENT CONTRACT are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.



**9.11 INCONSISTENCY.** If the DEVELOPMENT PLANS are inconsistent with the words of this DEVELOPMENT CONTRACT or if the obligations imposed hereunder upon the DEVELOPER are inconsistent, then that provision or term which imposes a greater and more demanding obligation on the DEVELOPER shall prevail.

**9.12 ACCESS.** The DEVELOPER hereby grants to the CITY, its agents, employees, officers, and contractors a license to enter the PLAT to perform all inspections deemed appropriate by the CITY during the installation of DEVELOPER IMPROVEMENTS by the DEVELOPER.

**9.13 LANDSCAPING.** *Installation and Maintenance.* The following regulations shall govern the installation and maintenance of landscaping and screening materials.

- a) All landscaping materials and screening materials shall be installed in conjunction with site development and prior to issuance of a final certificate of occupancy and building.
- b) A letter of credit or other security as acceptable to the CITY shall be deposited with the DIRECTOR OF PUBLIC WORKS, in an amount equal to ten percent (10%) of the estimated cost of landscaping, fencing and/or screening. The letter of credit, or portions thereof, shall be forfeited to maintain and/or replace materials for a period of time to include at least two (2) growing seasons, as defined by MnDOT specifications. A portion of the letter of credit may be released after one growing season as determined by the DIRECTOR OF PUBLIC WORKS.
- c) A decorative, permanent fence similar, if not identical, to the existing fence found west of Naegele Avenue shall be installed at the west property line boundary within the University Avenue ROW, consisting of masonry columns and iron fencing with a design approved by the CITY. The City will assist the DEVELOPER to obtain the appropriate permits required by MnDOT for fence installation within the University Avenue ROW. The OWNER shall be responsible for the on-going maintenance of the fencing. Any landscaping west of the fence shall require a MnDOT permit and Maintenance Agreement, with copies provided to the CITY. Where new fencing is installed along the MnDOT ROW, the DEVELOPER shall be responsible for the removal of any existing chain link or other fencing to the extent such removal may be permitted by MnDOT.
- d) The OWNER shall be responsible for continued maintenance of fencing, landscaping and screening materials to remain in compliance with the requirements of this Section.
- e) All DEVELOPMENT turf irrigation systems shall include rain detecting shutoff devices to control irrigation function during wet weather.

**9.14 PARK DEDICATION.** Subject to reduction for all applicable existing credits in favor of the DEVELOPER, the CITY hereby determines Park Dedication Fees in the amount of \$1,500.00 per unit, and that such fees are paid at Final PLAT Approval by the CITY, or prior to issuance of any and all permits. The calculation shall be as provided in EXHIBIT ‘C.’

**9.15 RECORD DRAWINGS.** The OWNER shall provide to the CITY, upon completion of the DEVELOPER IMPROVEMENTS, a complete set of Record Drawings documenting the constructed or “as-built” condition of the DEVELOPER IMPROVEMENTS. The Record Drawings shall be submitted in electronic and hard copy form consistent with CITY requirements, and provided to the PWD within six (6) months of the completion of the DEVELOPER IMPROVEMENTS. Additionally, the OWNER shall include in the Record Drawings GPS Data of all sanitary sewer and water main **service locations** at the service extensions or property lines. The GPS Data shall include X, Y & Z coordinate data consistent with City requirements.

**9.16 ADDITIONAL AGREEMENTS.**

- A. The OWNER and the CITY hereby agree that the maintenance costs of the large storm water pond located at the northwest corner of 37<sup>th</sup> Street and Huset Parkway shall be shared by the DEVELOPMENT and CITY on an 67% (DEVELOPMENT) – 33% (CITY) split. Necessary storm water maintenance activities shall be conducted or cause to be conducted by the CITY, with said costs billed to the DEVELOPMENT by the CITY, payable within 30 days. In order to enforce the provisions of this Section 9.16(C), the governing documents of all homeowners’ associations (collectively, the “HOA”) shall be subject to the reasonable review and approval of the City Attorney to assure that the HOA’s documents include a requirement for said necessary storm water pond maintenance and reimbursement to the City for two thirds (67%) of said cost.
- B. The OWNER hereby agrees to place a 10 foot wide paved trail along the University Avenue ROW. The CITY agrees to assist in MnDOT permitting prior to the installation of the trail. The design and construction of the trail shall be the responsibility of the OWNER, meeting CITY trail requirements.
- C. The OWNER hereby agrees to place a 6 foot wide sidewalk along the 37<sup>th</sup> Avenue NE ROW. The design and construction of the sidewalk shall be the responsibility of the OWNER, meeting CITY sidewalk requirements.
- D. The OWNER hereby agrees to construct a monument sign which will incorporate the City logo. The design and construction of the sign shall be the responsibility of the OWNER, subject to final approval by the CITY.

- E. The DEVELOPER shall dedicate public easements over the public sidewalk adjacent to 37<sup>th</sup> Avenue NE, as well as the onsite stormwater management features, including the Stormwater Pond and water hydrants.
- F. The OWNER and the CITY hereby agree to the Inspections and Maintenance Activities for the Filtration System contained in Civil Sheet 3-4.

**9.17 RELEASE OF DEVELOPMENT CONTRACT.** Upon completion of all DEVELOPER IMPROVEMENTS and all DEVELOPER PUBLIC IMPROVEMENTS, and upon the expiration of the Section 1.15G. TWO YEAR WARRANTY ON PROPER WORK AND MATERIALS, the DEVELOPER may submit to the CITY a draft release of this DEVELOPMENT CONTRACT for review and approval by the CITY's attorney.

IN WITNESS WHEREOF, the parties have executed this DEVELOPMENT CONTRACT.

**CITY OF COLUMBIA HEIGHTS**

**DEVELOPER:  
COLUMBIA HEIGHTS LEASED  
HOUSING ASSOCIATES I, LLLP,  
A MINNESOTA LIMITED LIABILITY  
LIMITED PARTNERSHIP**

By: \_\_\_\_\_  
Gary Peterson  
Its: Mayor

By: Columbia Heights Leased Housing Associates,  
I, LLLP, a Minnesota Limited Liability  
Limited Partnership  
Its: General Partner

By: \_\_\_\_\_  
Walt Fehst  
Its: City Manager

By: \_\_\_\_\_  
Mark S. Moorhouse  
Its: Senior Vice President

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF ANOKA     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me a Notary Public within and for said County, personally appeared to me Gary Peterson and Walt Fehst, personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Manager of the City of Columbia Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed in behalf of said municipality by authority of its City Council and said Mayor and City Manager acknowledged said instrument to be the free act and deed of said municipality.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF ANOKA     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2016, before me a Notary Public within and for said County, personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, said that he is the Senior Vice President of Columbia Heights Leased Housing Associates I, LLC, the general partner of Columbia Heights Leased Housing Associates I, LLLP, on behalf of said partnership.

\_\_\_\_\_  
Notary Public

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**THIS INSTRUMENT DRAFTED BY:**

Kevin Hansen, P.E.  
Public Works Director/City Engineer  
City of Columbia Heights  
637 38<sup>th</sup> Avenue N.E.  
Columbia Heights, MN 55421  
763/706-3705

James Hoeft  
City Attorney  
Barna, Guzy, and Steffen, Ltd  
200 Coon Rapids Boulevard  
Suite 400  
Coon Rapids, MN  
763/783-5122

**EXHIBIT A**

**LIST OF DEVELOPMENT PLANS**  
**DOMINIUM SENIOR HOUSING**

	<i>PLAN DESCRIPTION</i>	<i>DESIGN</i>	<i>PLAN DATE</i>
1.	<b>Development Plat</b>	<b>Loucks</b>	
2.	<b>Erosion Control and Grading Plan</b>	<b>Loucks</b>	
3.	<b>Street/Trail Plan (Private)</b>	<b>Loucks</b>	
4.	<b>Utility/Site Plan (Public/Private)</b>	<b>Loucks</b>	
5.	<b>Landscape Plan</b>	<b>BKV Group</b>	
6.	<b>Street Light Plan (private)</b>	<b>BKV Group</b>	
7.	<b>Building Plan</b>	<b>BKV Group</b>	

**EXHIBIT B**

**DEVELOPER PUBLIC IMPROVEMENTS**

The items indicated with “PUBLIC” below are those DEVELOPER IMPROVEMENTS that are DEVELOPER-PUBLIC IMPROVEMENTS.

	<b><u>COMPLETION DATE</u></b>	<b><u>IMPROVEMENT</u></b>
	<del>6/31/17</del> <u>3/31/18</u>	Grading/Removals/Erosion Control Plan
	<del>6/31/17</del> <u>3/31/18</u>	Utilities (Sanitary and Water Mains)
Sewer)	<del>6/31/17</del> <u>3/31/18</u>	Utilities (Storm
Private)	<del>12/31/17</del> <u>9/30/18</u>	Streets/Trail (Plat -
	<del>12/31/17</del> <u>9/30/18</u>	Trails (Plat - Public)
	<del>12/31/17</del> <u>9/30/18</u>	Sidewalks (Plat – Public)
	<del>12/31/17</del> <u>9/30/18</u>	Landscaping
	<del>12/31/17</del> <u>9/30/18</u>	Street Lighting

**Note:** Pursuant to Section 2.4, all Developer Improvements must be completed prior to the final occupancy of the building on Huset Park Senior Living. Unless otherwise agreed to by the City, this provision shall exclude Site Landscaping and Site Street Lighting.

**EXHIBIT C**

**ESCROW AND PARK DEDICATION CALCULATION(S)**

**Park Dedication Fee**

\$1,500/unit x 191 units = \$286,500

Land Credit from Phase I -67,058

= **\$219,442**

**DEVELOPER IMPROVEMENTS**

1.	<b>Erosion Control/Restoration</b>	<b>\$ 45,000</b>
2.	<b>Site Utilities</b>	<b>\$ 225,000</b>
3.	<b>Public Street Connections (1)</b>	<b>\$ NA – existing curb cut</b>
4.	<b>Landscaping (incl. Retaining Walls)</b>	<b>\$ 195,000</b>
5.	<b>University Avenue Fence</b>	<b>\$ 97,500</b>
6.	<b>Trail / Sidewalk</b>	<b>\$ 35,000</b>
7.	<b>Monument Sign</b>	<b>\$ 20,000</b>
		<b>\$ 617,500</b>
<b>MULTIPLIED BY:</b>	<b>1.25</b>	
	<b>EQUALS:</b>	<b>\$ 771,875</b>

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**In addition to the deposit or letter of credit required above, the DEVELOPER shall also deposit \$10,000 in cash with the CITY contemporaneously with execution of this DEVELOPMENT CONTRACT. This \$10,000 shall be to pay the CITY for engineering review and site inspection fees at the CITY's standard rates charged for such tasks. Upon acceptance of the DEVELOPER PUBLIC IMPROVEMENTS, the CITY shall return to the DEVELOPER any remaining portion of the \$10,000 not otherwise charged against the DEVELOPER for engineering review and inspection performed by the CITY. To the extent the engineering review and inspection fees, calculated according to the CITY's standard rates, exceed the \$10,000 deposit, the DEVELOPER is responsible for payment of such excess within thirty (30) days after billing by the CITY.**





<b>AGENDA SECTION</b>	<b>CONSENT</b>
<b>ITEM NO.</b>	7G
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	First Amendment to Second Amended and Restated Contract for Private Redevelopment		
<b>DEPARTMENT:</b>	Community Development	<b>CITY MANAGER'S APPROVAL:</b>	
<b>BY/DATE:</b>	Keith Dahl, July 6, 2016	<b>BY/DATE:</b>	

**BACKGROUND:**

April 11, 2016, The City of Columbia Heights (the "City Council") approved resolution 2016-37 authorizing the execution of the Second Amended and Restated Contract for Private Redevelopment (the "Contract") between Columbia Heights Economic Development Authority (the "EDA") and Columbia Heights Leased Housing associates I, LLLP (the "Redeveloper"). The Contract was fully executed by all parties on April 19, 2016.

After the Contract was fully executed, the Redeveloper requested an extension on the construction deadlines and the deadline for payment of the administrative fee due to financial delays. The Redeveloper's financial delays stem from the general market conditions present with affordable housing. In order for the Huset Park Senior Living Apartments to be considered affordable housing, a minimum of 55% of the project needs to be funded by tax credit bonds. However, the market for tax credit bonds has been depleted, which has delayed the Redeveloper to meet the minimum financial requirement for this project. More tax credit bonds become available August 1, 2016 for the Redeveloper to meet the minimum financial requirement.

A First Amendment to the Contract has been proposed to extend the required deadlines for the commencement and completion of the construction for the Huset Park Senior Living development project and to designate an extended deadline for the Redeveloper's payment of the Administrative Fee. Attached for review is Resolution 2016-63 and the First Amendment to the Contract.

**STAFF RECOMMENDATION:**

Staff recommends approval of the First Amendment to Second Amended and Restated Contract for Private Redevelopment.

**RECOMMENDED MOTION(S):**

**Motion:** Move to waive the reading of Resolution No. 2016-63, there being ample copies available to the public.

**Motion:** Move to adopt Resolution 2016-63, a resolution approving a First Amendment to the Second Amended and Restated Contract for Private Redevelopment between the City of Columbia Heights, the Columbia Heights Economic Development Authority, and Columbia Heights Leased Housing Associates I, LLLP.

**ATTACHMENTS:**

Resolution 2016-63 (2 page)

First Amendment to Second Amended and Restated Contract for Private Redevelopment (5 pages)

**CITY RESOLUTION NO. 2016-63**

**RESOLUTION APPROVING A FIRST AMENDMENT OF A SECOND AMENDED AND RESTATED CONTRACT FOR PRIVATE REDEVELOPMENT BETWEEN THE COLUMBIA HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY, THE CITY OF COLUMBIA HEIGHTS, AND COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES I, LLLP**

BE IT RESOLVED BY the City Council (the “Council”) of the City of Columbia Heights, Minnesota (the “City”) as follows:

Section 1. Recitals.

1.01. Pursuant to its authority under Minnesota Statutes, Sections 469.090 to 469.1082 and 469.174 to 469.1794, as amended, the Columbia Heights Economic Development Authority (the “Authority”), with the approval of the City, created the Huset Park Tax Increment Financing District within its Downtown CBD Redevelopment Project (the “Project”), for the purpose of facilitating the redevelopment of certain substandard property within the Project.

1.02. the Authority, the City, and Columbia Heights Leased Housing Associates I, LLLP (the “Redeveloper”) entered into that certain Second Amended and Restated Contract for Private Redevelopment dated as of October 30, 2015 (the “Contract”), amending and restating certain prior agreements and providing, among other things, for the construction by the Redeveloper of certain improvements (the “Minimum Improvements”) on the property legally described within the Contract (the “Redevelopment Property”), and the disbursement of an administrative fee by the Redeveloper to the Authority (the “Administrative Fee”) in connection with the issuance by the Authority of its Tax Increment Revenue Refunding Bonds (Huset Park Area Redevelopment Project), Series 2016 (the “Bonds”).

1.03. The parties have negotiated and propose to execute a First Amendment to the Contract (the “First Amendment”) to clarify the definition of “Minimum Improvements,” to extend the required deadlines for the commencement and completion of construction of the Minimum Improvements, and to designate an extended deadline for payment of the Administrative Fee.

Section 2. First Amendment Approved.

2.01. The First Amendment as presented to the Council is hereby in all respects approved, subject to modifications that do not alter the substance of the transaction and that are approved by the Mayor and City Manager, provided that execution of the First Amendment by such officials shall be conclusive evidence of approval.

2.02. The Mayor and City Manager are hereby authorized to execute on behalf of the City the First Amendment and any documents referenced therein requiring execution by the City, and to carry out, on behalf of the City, its obligations thereunder.

2.03. City staff and consultants are authorized to take any actions necessary to carry out the intent of this resolution.

Adopted by the City Council of the City of Columbia Heights this July 11, 2016.

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Mayor

ATTEST:

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City Clerk

**FIRST AMENDMENT TO SECOND AMENDED AND RESTATED CONTRACT FOR  
PRIVATE REDEVELOPMENT**

This agreement is made as of \_\_\_\_\_, 2016, by and between the COLUMBIA HEIGHTS ECONOMIC DEVELOPMENT AUTHORITY, a public body politic and corporate (the “Authority”), the CITY OF COLUMBIA HEIGHTS, a Minnesota municipal corporation (the “City”), and COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES I, LLLP, a Minnesota limited liability limited partnership (the “Redeveloper”).

WHEREAS, the Authority, the City, and the Redeveloper entered into that certain Second Amended and Restated Contract for Private Redevelopment dated as of October 30, 2015 (the “Contract”), amending and restating certain prior agreements and providing, among other things, for the construction by the Redeveloper of certain improvements (the “Minimum Improvements”) on the property legally described within the Contract (the “Redevelopment Property”), and the disbursement of an administrative fee by the Redeveloper to the Authority (the “Administrative Fee”) in connection with the issuance by the Authority of its Tax Increment Revenue Refunding Bonds (Huset Park Area Redevelopment Project), Series 2016 (the “Bonds”); and

WHEREAS, the parties have determined to revise the Contract to clarify the definition of “Minimum Improvements,” to extend the required deadlines for the commencement and completion of construction of the Minimum Improvements, and to designate an extended deadline for payment of the Administrative Fee.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

1. Amendment to Section 1.1 of the Contract. The definition of “Minimum Improvements” in Section 1.1 of the Contract is amended as follows:

“Minimum Improvements” means the construction on the Redeveloper Parcels of a multistory building containing 191 units of multifamily rental housing, along with associated underground structured parking and surface parking.

2. Amendment to Section 3.5(b) of the Contract. Section 3.5(b) of the Contract is amended as follows:

(b) In conjunction with execution of this Agreement, the Authority has refunded the Series 2007 Bonds to achieve debt service savings (such refunding bonds hereinafter referred to as the “Refunding Bonds”), and the Redeveloper has paid to the Authority funds in the amount of

\$107,325, representing the total actual costs of issuance (including underwriter's discount) of the Refunding Bonds. The Redeveloper agrees that no later than August 31, 2016, the Redeveloper will pay to the Authority an administrative fee of \$100,000, which will be deposited into a legally authorized redevelopment fund to be designated by the Authority or City.

3. Amendment to Section 4.3(a) of the Contract. Section 4.3(a) of the Contract is amended as follows:

Section 4.3. Commencement and Completion of Construction. (a) Subject to Unavoidable Delays, the Redeveloper shall commence construction of the Minimum Improvements by March 1, 2017. Subject to Unavoidable Delays, the Redeveloper shall complete the construction of the Minimum Improvements by September 30, 2018. All work with respect to the Minimum Improvements to be constructed or provided by the Redeveloper on the Redeveloper Parcels shall be in conformity with the Construction Plans as submitted by the Redeveloper and approved by the Authority.

4. Miscellaneous. Except as amended by this Amendment, the Contract shall remain in full force and effect. Upon execution, Redeveloper shall reimburse the Authority for all out-of-pocket-costs incurred by the Authority in connection with negotiating, drafting and approval of this Amendment.

(Remainder of this page intentionally left blank.)

IN WITNESS WHEREOF, the Authority, the City, and the Redeveloper have caused this Amendment to be duly executed by their duly authorized representatives as of the date first above written.

COLUMBIA HEIGHTS ECONOMIC  
DEVELOPMENT AUTHORITY

By \_\_\_\_\_  
Its President

By \_\_\_\_\_  
Its Executive Director

STATE OF MINNESOTA    )  
                                          ) SS.  
COUNTY OF ANOKA        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016 by Gary Peterson and Walt Fehst, the President and Executive Director of the Columbia Heights Economic Development Authority, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

CITY OF COLUMBIA HEIGHTS

By \_\_\_\_\_  
Its Mayor

By \_\_\_\_\_  
Its City Manager

STATE OF MINNESOTA    )  
                                  ) SS.  
COUNTY OF ANOKA     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016 by Gary Peterson and Walt Fehst, the Mayor and City Manager of the City of Columbia Heights, a Minnesota municipal corporation, on behalf of the City.

\_\_\_\_\_  
Notary Public

COLUMBIA HEIGHTS LEASED HOUSING ASSOCIATES I, LLLP, a Minnesota Limited Liability Limited Partnership

By: Columbia Heights Leased Housing Associates I, LLC  
Its General Partner

By: \_\_\_\_\_  
Mark S. Moorhouse  
Its Senior Vice President

STATE OF MINNESOTA    )  
                                          ) SS.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016 by Mark S. Moorhouse, the Senior Vice President of Columbia Heights Leased Housing Associates I LLC, a Minnesota limited liability company, the General Partner of Columbia Heights Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, on behalf of the partnership.

\_\_\_\_\_  
Notary Public

THIS DOCUMENT DRAFTED BY:

Kennedy & Graven, Chartered (MNI)  
470 US Bank Plaza  
200 South Sixth Street  
Minneapolis, MN 55402  
(612) 337-9300





<b>AGENDA SECTION</b>	<b>CONSENT AGENDA</b>
<b>ITEM NO.</b>	<b>7H</b>
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	LICENSE AGENDA		
<b>DEPARTMENT:</b>	Community Development	<b>CITY MANAGER'S APPROVAL:</b>	
<b>BY/Date:</b>	July 8, 2016	<b>BY/Date:</b>	

**BACKGROUND/ANALYSIS**

Attached is the business license agenda for the July 11, 2016 Council meeting. This agenda consists of applications for 2016 Contractor Licenses.

At the top of the license agenda you will notice a phrase stating \*Signed Waiver Form Accompanied Application. This means that the data privacy form has been submitted as required. If not submitted, certain information cannot be released to the public.

**RECOMMENDED MOTION:**

Move to approve the items as listed on the business license agenda for July 11, 2016 as presented.

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TO CITY COUNCIL July 11, 2016

\*Signed Waiver Form Accompanied Application

**CONTRACTOR'S LICENSES-2016**

BLDG	*Total Comfort	4000 Winnetka Ave N, New Hope	\$60
	*Tech Builders Inc.	410 Downtown Plaza, Fairmont	\$60
	*Living Water Tree	2605 136 <sup>th</sup> Ave NW, Andover	\$60
	*Guardian Prop Maint	708 Cleveland Ave, New Brighton	\$60
	*Southtown Plumbing	6636 Penn Ave S, Richfield	\$60
	*Sedgwick Htg	1408 Northland Dr, Mendota Hts	\$60
	*Joel Smith Htg	13915 Lincoln St, Ham Lake	\$60
	*Apple Lake Htg	207 150 <sup>th</sup> St, Apple Valley	\$60
	*Birch Tree Care	3100 Spruce St, St Paul	\$60
	*Urban Tree & Land	3421 Cedar Ave So, Mpls	\$60

CITY OF COLUMBIA HEIGHTS

FINANCE DEPARTMENT

AGENDA SECTION CONSENT ITEMS

ITEM NO. 71

MEETING DATE JULY 11, 2016

COUNCIL MEETING OF: July 11, 2016.

STATE OF MINNESOTA

COUNTY OF ANOKA

CITY OF COLUMBIA HEIGHTS

Motion: Move that in accordance with Minnesota Statute 412.271, subd. 8 the City Council has reviewed the list of claims paid covering check number 161857 through 162032 in the amount of \$ 1,587,848.45.

These checks have been examined and found to be legal charges against the CITY OF COLUMBIA HEIGHTS, and are hereby recommended for payment.

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Report Selection:

Optional Report Title.....07/11/2016 COUNCIL LISTING

INCLUSIONS:

Fund & Account. thru  
Check Date..... thru  
Source Codes..... thru  
Journal Entry Dates..... thru  
Journal Entry Ids..... thru  
Check Number..... 161857 thru 162032  
Project..... thru  
Vendor..... thru  
Invoice..... thru  
Purchase Order..... thru  
Bank..... thru  
Voucher ..... thru  
Released Date..... thru  
Cleared Date..... thru  
Include Exp/Rev Closing Entries N  
Create Excel file & Download N

Run Instructions:

Jobq	Banner	Copies	Form	Printer	Hold	Space	LPI	Lines	CPI	CP	SP	RT
L	LEANNO	01		PRT04	Y	S	6	066	10	Y	Y	

Check History  
07/11/2016 COUNCIL LISTING

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	AAA AWARDS	161857	06/29/16	88.50
	AID ELECTRIC SERVICE INC	161858	06/29/16	3,469.63
	AMERICAN BOTTLING COMPAN	161859	06/29/16	376.83
	AMERICAN DREAM HOME IMP	161860	06/29/16	111.40
	AMERIPRIDE LINEN INC	161861	06/29/16	445.45
	ANOKA COUNTY LIBRARY	161862	06/29/16	142.16
	ARAH	161863	06/29/16	500.00
	ARTISAN BEER COMPANY	161864	06/29/16	3,596.40
	ASPEN MILLS, INC.	161865	06/29/16	174.85
	ASSURED SECURITY INC	161866	06/29/16	1,044.00
	BATTERIES PLUS - 028	161867	06/29/16	6.98
	BAUHAUS BREW LABS LLC	161868	06/29/16	978.50
	BELLBOY BAR SUPPLY	161869	06/29/16	449.55
	BELLBOY CORPORATION	161870	06/29/16	63.65
	BERNICK'S WINE	161871	06/29/16	2,884.65
	BOLTON & MENK, INC	161872	06/29/16	8,620.00
	BREAKTHRU BEVERAGE MN BE	161873	06/29/16	18,476.80
	BREAKTHRU BEVERAGE MN W&	161874	06/29/16	15,963.84
	CANDO/PATRICIA	161875	06/29/16	502.70
	CAPITOL BEVERAGE SALES L	161876	06/29/16	20,900.95
	CENTER POINT ENERGY	161877	06/29/16	793.28
	CENTURY COLLEGE	161878	06/29/16	55.00
	CENTURYLINK	161879	06/29/16	85.94
	CITY WIDE WINDOW SERVICE	161880	06/29/16	8.00
	COCA-COLA BOTTLING MIDWE	161881	06/29/16	1,661.63
	COCHRAN RECOVERY SERVICE	161882	06/29/16	67.00
	COLUMBIA HEIGHTS ATHLTC	161883	06/29/16	180.07
	COMCAST	161884	06/29/16	1,915.00
	COOL AIR MECHANICAL INC	161885	06/29/16	277,009.93
	DEMCO MEDIA	161886	06/29/16	79.37
	DIAMOND VOGEL PAINTS	161887	06/29/16	86.05
	DU ALL SERVICE CONTRACTO	161888	06/29/16	96.40
	EBERT CONSTRUCTION	161889	06/29/16	523,401.55
	EMBURY LTD	161890	06/29/16	3,900.00
	EMERGENCY AUTOMOTIVE TEC	161891	06/29/16	40.84
	EMERGENCY RESPONSE SOLUT	161892	06/29/16	64.18
	FERGUSON WATERWORKS INC	161893	06/29/16	525.59
	FIRST NATIONAL INSURANCE	161894	06/29/16	2,000.00
	G & K SERVICES INC	161895	06/29/16	266.50
	GENUINE PARTS/NAPA AUTO	161896	06/29/16	297.07
	GOVERNMENT FINANCE OFFIC	161897	06/29/16	435.00
	GUYER HOLDINGS II INC	161898	06/29/16	175.26
	G4S SECURE SOLUTIONS USA	161899	06/29/16	18.41
	HAMMEL GREEN & ABRAHAMSO	161900	06/29/16	28,635.16
	HANSEN/KEVIN	161901	06/29/16	117.25
	HAVERSON/BRUCE	161902	06/29/16	16.60
	HD SUPPLY WATER WORKS IN	161903	06/29/16	132.00

Check History  
07/11/2016 COUNCIL LISTING

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	HERRINGER/GERRY	161904	06/29/16	35.00
	HILLTOP TRAILER SALES IN	161905	06/29/16	779.52
	HOHENSTEINS INC	161906	06/29/16	6,625.93
	HOLMBECK/ELIZABETH	161907	06/29/16	107.24
	INDEED BREWING COMPANY L	161908	06/29/16	1,092.60
	INNOVATIVE OFFICE SOLUTN	161909	06/29/16	3,139.56
	J H LARSON ELECTRIC COMP	161910	06/29/16	54.60
	JEFFERSON FIRE & SAFETY	161911	06/29/16	2,626.53
	JJ TAYLOR DIST OF MN	161912	06/29/16	22,043.36
	JOHNSON BROS. LIQUOR CO.	161913	06/29/16	35,856.26
	K & S ENGRAVING LLC	161914	06/29/16	66.00
	KITTLESON/BRENNA M	161915	06/29/16	240.00
	LARA/EULOGIO	161916	06/29/16	750.00
	LEAGUE OF MINNESOTA CITI	161917	06/29/16	100.40
	LEAGUE OF MN CITIES INS	161918	06/29/16	1,522.00
	LOFFLER COMPANIES INC	161919	06/29/16	1,779.24
	MCDONALD DISTRIBUTING CO	161920	06/29/16	911.30
	MEDICINE LAKE TOURS	161921	06/29/16	2,665.00
	MENARDS CASHWAY LUMBER-F	161922	06/29/16	313.64
	METRO WELDING SUPPLY	161923	06/29/16	75.00
	MIDWAY FORD	161924	06/29/16	815.15
	MN DEPT OF ADMINISTRATIO	161925	06/29/16	76.95
	MOTION PICTURE LICENSING	161926	06/29/16	242.28
	NADEAU/SCOTT	161927	06/29/16	79.95
	NFPA INTERNATIONAL	161928	06/29/16	175.00
	PAUSTIS & SONS WINE COMP	161929	06/29/16	763.51
	PEOPLE'S ELECTRIC	161930	06/29/16	214,154.70
	PHILLIPS WINE & SPIRITS	161931	06/29/16	6,345.78
	PIONEER ATHLETICS	161932	06/29/16	1,456.00
	POPP.COM INC	161933	06/29/16	554.75
	PRAIRIE RESTORATIONS INC	161934	06/29/16	799.22
	PRO GRAPHICS	161935	06/29/16	14.00
	RESPEC INC	161936	06/29/16	65.00
	S&S TREE AND HORTICULTUR	161937	06/29/16	11,627.48
	SCOTT/LAWRENCE L.	161938	06/29/16	35.00
	SHORT ELLIOT HENDRICKSON	161939	06/29/16	343.11
	SOUTHERN WINE & SPIRITS	161940	06/29/16	14,733.36
	ST CLOUD STATE UNIVERSIT	161941	06/29/16	450.00
	STAR TRIBUNE	161942	06/29/16	42.25
	STREICHER'S GUN'S INC/DO	161943	06/29/16	1,330.50
	SYN-TECH SYSTEMS INC	161944	06/29/16	918.75
	SZUREK/MARLAINE	161945	06/29/16	35.00
	T A SCHIFSKY & SONS INC	161946	06/29/16	844.29
	THYSSENKRUPP ELEVATOR CO	161947	06/29/16	70.12
	TKO WINES INC	161948	06/29/16	103.20
	TRIO SUPPLY COMPANY INC	161949	06/29/16	381.08
	TWIN CITIES JUNK HAULING	161950	06/29/16	498.00

Check History  
07/11/2016 COUNCIL LISTING

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	ULTIMATE MARTIAL ARTS	161951	06/29/16	154.00
	VEIT COMPANY INC	161952	06/29/16	7,350.90
	VERIZON WIRELESS	161953	06/29/16	60.06
	VINOCOPIA INC	161954	06/29/16	807.25
	WINE MERCHANTS	161955	06/29/16	59.76
	XCEL ENERGY (N S P)	161956	06/29/16	22,177.41
	NORTHEAST BANK CREDIT CA	161957	06/29/16	0.00
	A DYNAMIC DOOR CO INC	161958	07/06/16	1,821.83
	AAA AWARDS	161959	07/06/16	149.25
	ACE HARDWARE	161960	07/06/16	101.07
	ADAM'S PEST CONTROL, INC	161961	07/06/16	76.50
	AID ELECTRIC SERVICE INC	161962	07/06/16	1,704.09
	ALLIED BLACKTOP COMPANY	161963	07/06/16	461.24
	ALLINA HEALTH SYSTEMS	161964	07/06/16	210.00
	AMERICAN BOTTLING COMPAN	161965	07/06/16	484.97
	ARTISAN BEER COMPANY	161966	07/06/16	2,663.61
	ASPEN MILLS, INC.	161967	07/06/16	240.35
	BELLBOY BAR SUPPLY	161968	07/06/16	472.67
	BELLBOY CORPORATION	161969	07/06/16	2,542.75
	BERNICK'S WINE	161970	07/06/16	2,333.16
	BREAKTHRU BEVERAGE MN BE	161971	07/06/16	18,289.77
	BREAKTHRU BEVERAGE MN W&	161972	07/06/16	21,836.00
	CAPITOL BEVERAGE SALES L	161973	07/06/16	30,370.14
	CENTURYLINK	161974	07/06/16	39.11
	CITY OF EAGAN	161975	07/06/16	261.00
	COCA-COLA BOTTLING MIDWE	161976	07/06/16	373.45
	COLUMBIA HEIGHTS RENTAL	161977	07/06/16	46.00
	COMMERCIAL ASPHALT	161978	07/06/16	2,668.18
	CREATED TO GROW LLC	161979	07/06/16	249.82
	DALCO ENTERPRISES INC	161980	07/06/16	227.42
	DU ALL SERVICE CONTRACTO	161981	07/06/16	385.60
	FARNER-BOCKEN	161982	07/06/16	5,569.84
	FRANKLIN PRESS INC	161983	07/06/16	175.46
	G & K SERVICES INC	161984	07/06/16	59.16
	GENUINE PARTS/NAPA AUTO	161985	07/06/16	67.00
	GRIFFIN/JODI	161986	07/06/16	16.56
	G4S SECURE SOLUTIONS USA	161987	07/06/16	4,428.21
	HANSON/ERIC	161988	07/06/16	71.55
	HOHENSTEINS INC	161989	07/06/16	3,793.65
	HOME DEPOT #2802	161990	07/06/16	3.94
	ICC - NATIONAL	161991	07/06/16	135.00
	INNOVATIVE OFFICE SOLUTN	161992	07/06/16	34.16
	INTEGRATED LOSS CONTROL	161993	07/06/16	409.00
	JENSEN/SHERRI	161994	07/06/16	31.95
	JJ TAYLOR DIST OF MN	161995	07/06/16	28,913.15
	JOHNSON BROS. LIQUOR CO.	161996	07/06/16	22,229.75
	KROLL/LORRAINE	161997	07/06/16	150.00

Check History  
07/11/2016 COUNCIL LISTING

BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
BANK CHECKING ACCOUNT				
	LIFT PRO	161998	07/06/16	101.52
	MAC QUEEN EQUIPMENT CO.	161999	07/06/16	1,558.82
	MARCO, INC	162000	07/06/16	534.93
	MCDONALD DISTRIBUTING CO	162001	07/06/16	354.80
	MENARDS CASHWAY LUMBER-F	162002	07/06/16	230.76
	MIDWAY FORD	162003	07/06/16	1,822.09
	MN DEPT OF ADMINISTRATIO	162004	07/06/16	95.00
	MN HIGHWAY SAFETY & RESE	162005	07/06/16	396.00
	MTI DISTRIBUTING	162006	07/06/16	14.63
	NIGON WOODWORKS INC	162007	07/06/16	75,224.00
	NORTH METRO TELECOMM COM	162008	07/06/16	1,400.00
	OFFICE DEPOT	162009	07/06/16	245.14
	ON SITE SANITATION INC	162010	07/06/16	3,237.50
	PAUSTIS & SONS WINE COMP	162011	07/06/16	2,517.77
	PHILLIPS WINE & SPIRITS	162012	07/06/16	3,600.38
	PLETCHER/JUSTIN	162013	07/06/16	83.32
	PRAIRIE RESTORATIONS INC	162014	07/06/16	1,647.71
	RAPID GRAPHICS & MAILING	162015	07/06/16	970.00
	ROLSTAD/ERICK	162016	07/06/16	19.65
	ROLSTAD/SAMANTHA	162017	07/06/16	10.00
	ROYAL TIRE	162018	07/06/16	174.45
	SECURITY FENCE & CONSTRU	162019	07/06/16	1,560.00
	SOUTHERN WINE & SPIRITS	162020	07/06/16	14,859.05
	STAPLES ADVANTAGE	162021	07/06/16	38.11
	TELCOM CONSTRUCTION INC	162022	07/06/16	24,953.00
	THORN/ERICKA	162023	07/06/16	262.44
	TRACY PRINTING	162024	07/06/16	354.80
	TRIO SUPPLY COMPANY INC	162025	07/06/16	24.86
	VINOCOPIA INC	162026	07/06/16	938.25
	WHOLESALE TRUCK-TRLR PR	162027	07/06/16	349.47
	WINE MERCHANTS	162028	07/06/16	260.03
	WSB & ASSOCIATES INC	162029	07/06/16	484.00
	XCEL ENERGY (N S P)	162030	07/06/16	4,813.31
	ZIEGLER INC	162031	07/06/16	940.32
	4IMPRINT.COM	162032	07/06/16	469.07
				1,587,848.45



BANK	VENDOR	CHECK#	CHECK DATE	AMOUNT
REPORT TOTALS:				1,587,848.45

RECORDS PRINTED - 001091

Check History

FUND RECAP:

FUND	DESCRIPTION	DISBURSEMENTS
101	GENERAL	52,995.22
201	PLANNING & INSPECTIONS	646.89
204	EDA ADMINISTRATION	168.48
212	STATE AID MAINTENANCE	1,132.42
225	CABLE TELEVISION	2,465.88
240	LIBRARY	547.22
261	AFTER-SCHOOL PROGRAMS	354.63
411	CAPITAL IMP-GEN GOVT. BLDG	844.29
415	CAPITAL IMPRVMT - PIR PROJ	980.00
439	FIRE CAPITAL EQUIPMENT	2,667.37
450	CAPITAL BLDG - LIBRARY	1,149,406.41
601	WATER UTILITY	5,380.38
602	SEWER UTILITY	981.60
603	REFUSE FUND	373.11
604	STORM SEWER UTILITY	4,081.11
609	LIQUOR	329,555.49
651	WATER CONSTRUCTION FUND	9,538.10
652	SEWER CONSTRUCTION FUND	7,350.90
653	STORM SEWER CONSTRUCT. FUND	484.00
701	CENTRAL GARAGE	12,819.15
705	BUILDING MAINTENANCE	71.55
720	INFORMATION SYSTEMS	211.60
883	CONTRIBUTED PROJECTS-OTHER	1,270.65
884	INSURANCE	3,522.00
TOTAL ALL FUNDS		1,587,848.45

BANK RECAP:

BANK	NAME	DISBURSEMENTS
BANK	CHECKING ACCOUNT	1,587,848.45
TOTAL ALL BANKS		1,587,848.45



<b>AGENDA SECTION</b>	<b>ITEMS FOR CONSIDERATION</b>
<b>ITEM NO.</b>	9Aa
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	Approve Settlement Agreement and Release; and authorize payment regarding a PERA Disability Claim		
<b>DEPARTMENT:</b>	Administration	<b>CITY MANAGER'S APPROVAL:</b>	
<b>BY/DATE:</b>	Kelli Bourgeois; 7/7/16	<b>BY/DATE:</b>	

**BACKGROUND:**

In January, 2016 the City appealed a PERA disability determination for a former employee. The matter went to mediation during which time the parties agreed to a settlement. The City Council will hold a closed session to review the settlement with the City Attorney at 6:30 p.m. on July 11<sup>th</sup>. Following the closed session, City Council is asked to act upon the Settlement Agreement and Release and authorize payment for the settlement during the regular July 11<sup>th</sup> City Council meeting.

**RECOMMENDED MOTION:** Move to approve the Settlement Agreement and Release as discussed in the July 11, 2016 closed session, and to authorize payment of the settlement in the amount of \$37,500.



<b>AGENDA SECTION</b>	<b>ITEMS FOR CONSIDERATION</b>
<b>ITEM NO.</b>	9Ab
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	Second Reading of Ordinance 1628, Amending Chapter 8, Article IV, of City Code		
<b>DEPARTMENT:</b>	Fire	<b>BY/Date:</b>	G. Gorman 5/24/2016
<b>CITY MANAGER'S APPROVAL:</b>		<b>BY/Date:</b>	

**BACKGROUND:**

Chapter 8, Article IV of City code automatically adopts the most current edition of the Minnesota State Fire Code as part of City Code. The State Fire Code includes optional appendices that are only enforceable if specifically adopted by the municipality. The last time this section of code was updated in 2005, six of the nine optional appendices were adopted and are part of City Code. The State adopted a new State Fire Code in May. The nine former appendices have changed to twelve, with many having different appendix letters than before. To eliminate the need to change City Code with each adoption of a new State Fire Code the Fire Department is proposing a change to Chapter 8, Section IV to allow for the adoption of the optional appendices by Council Resolution. After this ordinance change is in affect a Council Resolution will be brought before the Council that will explain the appendices and which ones the Fire Department will be adopting. First Reading of Ordinance 1628 was June 13, 2016.

**STAFF RECOMMENDATION:**

To approve the change to City Code to allow for the adoption of State Fire Code optional appendices by City Council Resolution.

**RECOMMENDED MOTION(S):**

**Motion:** Move to waive the reading of Ordinance No. 1628, there being ample copies available to the public.

**Motion:** Move to adopt Ordinance No. 1628 being an Ordinance amending Chapter 8, Article IV of City Code of 2005 relating to the adoption of the Minnesota State Fire Code.

**ATTACHMENTS:**

Ordinance 1628

**ORDINANCE 1628**  
**BEING AN ORDINANCE AMENDING CHAPTER 8, ARTICLE IV, CITY CODE**  
**PERTAINING TO THE ADOPTION OF THE MINNESOTA STATE FIRE CODE**

The City of Columbia Heights does ordain:

**Chapter 8, Article IV of the Columbia Heights City Code, which currently reads to wit:**

8.401 GENERAL PROVISIONS.

(A) *Codes adopted by reference.* The Minnesota State Fire Code, as adopted by the Commissioner of Public Safety through the Division of the Fire Marshal, pursuant to M.S. Ch. 299F.011, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Public Safety through the Fire Marshal Division is hereby adopted by reference with the exception of the optional appendices, unless specifically adopted herein. The Minnesota State Fire Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration and enforcement.* The application, administration, and enforcement of the code shall be in accordance with Minnesota State Fire Code. The code shall be enforced within the extraterritorial limits permitted by M.S. Ch. 299F.011, when so established by this section. The code enforcement agency of the city is the Columbia Heights Fire Department.

(C) *Permits and fees.* The issuance of permits and the collection of fees shall be as authorized in M.S. Ch. 299F.011. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the city by resolution.

(D) *Violations and penalties.* A violation of the code is a misdemeanor pursuant to M.S. Ch. 299F.011.

(E) *Fire Code optional appendices.* The Minnesota State Fire Code, established pursuant to M.S. Ch. 299F.011 allows the municipality to adopt by reference and enforce certain optional appendices of the most current edition of the Minnesota State Fire Code. The following optional appendices identified in the most current edition of the State Fire Code are hereby adopted and incorporated as part of the Fire Code for this municipality: Appendices D, E, F, G, H, and I.

**Is hereby amended to read as follows:**

8.401 GENERAL PROVISIONS.

(A) *Codes adopted by reference.* The Minnesota State Fire Code, as adopted by the Commissioner of Public Safety through the Division of the Fire Marshal, pursuant to M.S. Ch. 299F.011, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Public Safety through the Fire Marshal Division is hereby adopted by reference with the exception of the optional appendices, unless specifically adopted herein. The Minnesota State Fire Code is hereby incorporated in this section as if fully set out herein.

(B) *Application, administration and enforcement.* The application, administration, and enforcement of the code shall be in accordance with Minnesota State Fire Code. The code shall be enforced within the extraterritorial limits permitted by M.S. Ch. 299F.011, when so established by this section. The code enforcement agency of the city is the Columbia Heights Fire Department.

(C) *Permits and fees.* The issuance of permits and the collection of fees shall be as authorized in M.S. Ch. 299F.011. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the city by resolution.

(D) *Violations and penalties.* A violation of the code is a misdemeanor pursuant to M.S. Ch. 299F.011.

(E) *Fire Code optional appendices.* The Minnesota State Fire Code, established pursuant to M.S. Ch. 299F.011 allows the municipality to adopt by reference and enforce certain optional appendices of the most current edition of the Minnesota State Fire Code. ~~The following optional appendices identified in the most current edition of the State Fire Code are hereby adopted and incorporated as part of the Fire Code for this municipality: Appendices D, E, F, G, H, and I.~~ Optional appendices of the most current edition of the Minnesota State Fire Code may be adopted by Council Resolution.

This ordinance shall be in full force and effect from and after 30 days after its passage.

First Reading: Murzyn, Jr.  
Offered by: Williams  
Seconded by: All Ayes  
Roll Call:

Second Reading:  
Offered by:  
Seconded by:  
Roll Call:

Date of Passage:

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Gary L. Peterson, Mayor

Attest:

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Katie Bruno, City Clerk/Council Secretary



<b>AGENDA SECTION</b>	<b>Other Ordinances &amp; Resolutions</b>
<b>ITEM NO.</b>	9Ac
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	<b>SECOND READING OF ORDINANCE NO. 1629 AMENDING CHAPTER 10, SECTIONS 95, 96, 98 &amp; 99 OF THE CITY'S CHARTER PERTAINING TO FRANCHISES</b>		
<b>DEPARTMENT:</b> Administration	<b>CITY MANAGER'S APPROVAL:</b>		
<b>BY/DATE:</b> Katie Bruno	<b>BY/DATE:</b>		

**BACKGROUND:**

The Charter Commission has been continuing to review various sections of the City Charter. In discussions with the City Attorney, the Charter Commission proposes the attached amendments to the City Charter.

At the June 27<sup>th</sup> City Council Meeting, City Attorney James Hoeft explained that some of the language is outdated, or no longer applicable.

**RECOMMENDED MOTION(S):**

RECOMMENDED MOTION: Move to waive the reading of the Ordinance No. 1629, there being ample copies available to the public.

RECOMMENDED MOTION: Move to adopt Ordinance No.1629, being an ordinance amending Chapter 10, Sections 95, 96, 98 & 99 of the City's Charter pertaining to Franchises.

**ATTACHMENTS:**

Ordinance No. 1629

**ORDINANCE NO. 1629  
BEING AN ORDINANCE AMENDING CHAPTER 10,  
SECTIONS 95, 96, 98 and 99  
OF THE CITY CHARTER  
OF THE CITY OF COLUMBIA HEIGHTS  
PERTAINING TO FRANCHISES**

The City of Columbia Heights does ordain:

**SECTION 1:**

Chapter 10, Sections 95, 96, 98 and 99 of the Charter of the City of Columbia Heights is amended as follows:

Section 95. PUBLICATION OF FRANCHISES. Every ordinance granting or extending any franchise shall contain all the terms and conditions of the franchise. A franchise shall be without any validity whatever until it has been accepted by the grantee, and until it has been given adequate publicity, either by publication of ~~the franchise verbatim~~ a summary franchise ordinance in the official paper of the City ~~at least once a week for four~~ two successive ~~weeks~~ publications after its passages, ~~or~~ and by the posting of authentic copies of the franchise ~~upon bulletin boards in at least ten of the most public places in the city~~ the summary ordinance in City Hall and the City Library for a period of thirty days after its passage.

Section 96. TERM OF FRANCHISES LIMITED. No perpetual franchise shall ever be granted, nor shall any franchise be granted for a longer term than ~~twenty-five~~ fifteen years.

Section 98. ~~REGULATION OF RATES AND CHARGES. All corporations, co-partnerships, and persons exercising franchises in the city of Columbia Heights, shall give courteous, efficient and adequate service at reasonable rates.~~

Section 99. ~~Nothing herein contained shall be construed as in any way preventing the electors from exercising their powers under the referendum to reject such franchise.~~

**SECTION 2:**

This Ordinance shall be in full force and effect from and after thirty (30) days after its passage.

First Reading: June 27, 2016

Second Reading: July 11, 2016

Date of Passage:

Offered by:

Seconded by:

Roll Call:

\_\_\_\_\_  
Mayor Gary L. Peterson

\_\_\_\_\_  
Katie Bruno, City Clerk





<b>AGENDA SECTION</b>	<b>Other Ordinances &amp; Resolutions</b>
<b>ITEM NO.</b>	9Ad
<b>MEETING DATE</b>	<b>JULY 11, 2016</b>

**CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER**

<b>ITEM:</b>	<b>SECOND READING OF ORDINANCE NO. 1630 AMENDING CHAPTER 4, SECTION 28A PERTAINING TO CANDIDATE FILING FEES</b>		
<b>DEPARTMENT:</b> Administration	<b>CITY MANAGER'S APPROVAL:</b>		
<b>BY/DATE:</b> Katie Bruno	<b>BY/DATE:</b>		

**BACKGROUND:**

The Charter Commission has been continuing to review various sections of the City Charter. In discussions with the City Attorney, the Charter Commission proposes the attached amendments to the City Charter.

At the June 27<sup>th</sup> City Council City Attorney James Hoeft reported that filing fees have not been changed since early in the 1980's. The Charter Commission has discussed options, and agreed that an inflationary index adjustment would be appropriate.

**RECOMMENDED MOTION(S):**

RECOMMENDED MOTION: Move to waive the reading of the Ordinance No. 1630, there being ample copies available to the public.

RECOMMENDED MOTION: Move to adopt Ordinance No.1630, being an ordinance amending Chapter 4, Section 28a pertaining to Candidate Filing Fees.

**ATTACHMENTS:**

Ordinance No. 1630

**ORDINANCE NO. 1630**

**BEING AN ORDINANCE AMENDING CHAPTER 4, SECTION 28a  
OF THE CITY CHARTER OF THE CITY OF COLUMBIA HEIGHTS  
PERTAINING TO CANDIDATE FILING FEES**

The City of Columbia Heights does ordain:

**SECTION 1:**

Chapter 4, Section 28a of the Charter of the City of Columbia Heights is amended as follows:

Section 28a. THE PRIMARY ELECTION. A primary municipal election shall be held on the date established by Minnesota State Law of any year in which a municipal general election is to be held for the purpose of electing officers, at the same place or places as general elections are held and like officers shall preside at such elections.

The purpose of such primary election shall be to select candidates to be voted for at the general municipal election. The candidates for nomination to each office who shall receive the greatest number of votes in such primary election shall be placed upon the ballot of the next general election in numbers not to exceed double the number of vacancies to be filled, and no other name shall be placed upon the ballot for such general election than the candidates selected at said primary election. When not more than twice the number of individuals to be elected to a municipal office file for nomination to any municipal office, no primary shall be held, and the names of those having filed shall be placed on the municipal general election ballot as the nominee for that office. Any person desiring to become a candidate for an elective office in the general municipal election shall file with the city clerk at least fifty-six days prior to but not more than seventy days prior to said primary municipal election an affidavit of such candidacy as set forth in Minnesota Statutes 204B.06, subd. 1, and shall pay to the City Clerk the sum of ~~Five~~ Fifteen Dollars for which the City Clerk shall give a receipt expressing the purpose of the payment. Such City Clerk shall forthwith pay all fees so received to the City Treasurer. Upon compliance with the provisions of this section the City Clerk shall place such name upon the primary election ballot as a candidate for the office named. At least fifteen days notice shall be given by the City Clerk of the time and place of holding such primary election and of the officers to be nominated, by posting a notice thereof in at least three of the most public places in each election district in the city or by publication of a notice thereof at least once in the official newspaper, or both, as the City Council may ordain, but failure to give such notice shall not invalidate such election. (Ordinance No. 1300, passed April 10, 1995) (Ordinance No. 1596, passed on May 9, 2011)

*Strikethrough indicates deleted language, underline indicates new language*

**SECTION 2:**

This Ordinance shall be in full force and effect from and after ninety (90) days after its passage.

First Reading: June 27, 2016

Second Reading: July 11, 2016

Date of Passage: July 11, 2016

Offered by:

Seconded by:

Roll Call:

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Mayor Gary L. Peterson

Attest:

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Katie Bruno, City Clerk

*Strikethrough indicates deleted language, underline indicates new language*