



Mayor
Donna Schmitt
Councilmembers
Robert A. Williams
John Murzyn, Jr.
Connie Buesgens
Nick Novitsky
City Manager
Kelli Bourgeois

AGENDA
CITY COUNCIL SPECIAL MEETING
CITY HALL – COUNCIL CHAMBERS
590 40th AVE NE
WEDNESDAY, JUNE 17, 2020
4 PM

1. CALL TO ORDER/ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MISSION STATEMENT

Our mission is to provide the highest quality public services. Services will be provided in a fair, respectful and professional manner that effectively address changing citizen and community needs in a fiscally-responsible manner.

4. APPROVAL OF AGENDA

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

5. ITEMS FOR CONSIDERATION

A. New Business and Reports

a. **Reuter Walton Proposal for Public Safety Site**

6. CITY COUNCIL AND ADMINISTRATIVE REPORTS

Report of the City Council

Report of the City Manager

Report of the City Attorney

7. ADJOURNMENT

Kelli Bourgeois, City Manager



AGENDA SECTION	ITEMS FOR CONSIDERATION
ITEM NO.	5
MEETING DATE	6/17/2020

CITY OF COLUMBIA HEIGHTS- SPECIAL MEETING - COUNCIL LETTER

ITEM:	Approval of Purchase Agreement with Reuter Walton, LLC for sale of the Public Safety Outlot.		
DEPARTMENT:	Community Development	CITY MANAGER'S APPROVAL:	
BY/DATE:	Aaron Chirpich – 6/15/2020	BY/DATE:	<i>Kell Bongel</i> 6/15/20
CITY STRATEGY:	#6: Excellent Housing/Neighborhoods		
Additional Strategy?	#3: Affordability		
SHORT TERM GOAL (IF APPLICABLE):	N/A		
Additional Goal?			

BACKGROUND:

During three recent work session meetings, the Council has met with representatives from Reuter Walton Development regarding Reuter Walton's interest in constructing an apartment complex on the vacant lot located behind the public safety building. The development concept proposed by Reuter Walton includes 58 units of income restricted affordable housing, and an outlot for the potential future development of a 12,000 square foot building that could serve as a new home for the SACA food shelf and thrift store. The project includes a separate parcel for SACA due to SACA's desire to relocate from their current location which they have outgrown. SACA has been involved in the preliminary planning process for the project and has coordinated preliminary site planning efforts with Reuter Walton. However, SACA is not in an economic position to fully commit to the project. To accommodate the potential needs of SACA, Reuter Walton has designed their site plan to provide space for a separate parcel that can be carved out as part of the subdivision and platting process. This adjustment will allow the City to retain ownership of the future development site to accommodate SACA when they are ready to move. If SACA fails to develop the parcel, the City can consider other uses for the site, including a second phase of the Reuter Walton housing project.

Following review of the project concept at recent work session meetings, Reuter Walton has taken the Council's feedback and adjusted their proposal and development plans to accommodate the concerns of the Council. Within this context, the issue of parking management has been the primary focus, as Reuter Walton initially proposed to charge residents for underground parking. In the past, projects within the City with similar arrangements have caused issues with apartment residents that try to avoid parking fees and find parking off-site. As part of the negotiation process, Reuter Walton has agreed to find a solution to the parking concerns and they have committed to provide free underground parking to all residents.

For the project to move forward, Reuter Walton needs to secure Low Income Housing Tax Credits from the State of Minnesota. To secure tax credits from the State, Reuter Walton has to complete an application and compete with other affordable housing development proposals. The next deadline for tax credit applications is July 31, 2020. As part of the tax credit application process, Reuter Walton needs to demonstrate site control for the development site in the form of a purchase agreement by no later than June 18. This deadline was discussed with the Council at the June 1, work session, and the Council directed staff to work with Reuter Walton on the terms of a purchase contract that could be approved ahead of the deadline. To meet this objective, staff has worked to prepare the attached purchase agreement. The primary terms of the agreement are as follows:

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- Land sale price \$450,000
 - \$10,000 earnest money deposit
 - 1 year due-diligence period, with renewal option requiring additional \$10,000 earnest money deposit
 - Reuter Walton and any subsequent owner shall be required to provide free onsite parking to all residents for the duration of the tax credit compliance period (typically 30 years)
 - The food shelf will be a separate tax parcel retained by the City
 - Reuter Walton agrees to provide shared parking to the SACA development if it is developed by SACA
 - The final and formal review and approval of the purchase contract will take place at a future public hearing by the City Council

STAFF RECOMMENDATION:

Staff recommends that the Council approve Resolution 2020-51, a resolution approving the purchase agreement as presented with Reuter Walton, LLC. Approval of the agreement will allow Reuter Walton to move forward with their application to the State of Minnesota for low-income housing tax credits. Staff believes that sufficient contingencies have been put in place to protect the City and create the space needed to complete the appropriate level of due diligence for all parties.

RECOMMENDED MOTION(S):

Motion: Move to waive the reading of Resolution 2020-51, there being ample copies available to the public.

Motion: Move to adopt Resolution 2020-51, a resolution for the City of Columbia Heights, Minnesota, approving purchase agreement with Reuter Walton, LLC for the sale of the Public Safety outlot.

ATTACHMENTS:

- Resolution No. 2020-51
- Purchase Agreement

RESOLUTION NO. 2020-51

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF COLUMBIA HEIGHTS, MINNESOTA, APPROVING PURCHASE AGREEMENT WITH REUTER WALTON, LLC FOR SALE OF THE PUBLIC SAFETY OUTLOT

WHEREAS, Reuter Walton Development, LLC (the “Developer”) desires to acquire certain property (the “Property”) owned by the City of Columbia Heights (the “City”), which Property has been the subject of preliminary negotiations for purposes of constructing a multi-use development on the Property (the “Development”); and

WHEREAS, the City and the Developer have determined to enter into a purchase agreement (the “Agreement”), that outlines the basic terms of the land sale to the Developer and provides time for due diligence to be completed by both parties; and

WHEREAS, the City Council has reviewed the Agreement, and has determined that it is in the best interests of the City to approve and execute the Agreement; and

NOW, THEREFORE BE IT RESOLVED, the City approves the Agreement, and authorizes and directs the Mayor and City Manager to execute same in substantially the form on file, subject to modifications that do not alter the substance of the transaction and are approved by the Mayor and City Manager, provided that execution of the Agreement by such officials will be conclusive evidence of their approval.

NOW, BE IT FURTHER RESOLVED, that City officials, staff, and consultants are authorized to take any other actions necessary to carry out the City’s obligations under the Agreement, and to bring a proposed definitive purchase and development contract before the City.

Passed this 17th day of June, 2020

Offered by:
Seconded by:
Roll Call:

Donna Schmitt, Mayor

Attest:

Nicole Tingley, City Clerk

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this “Agreement”) is made as of this ___ day of June, 2020 (the “Effective Date”), between **THE CITY OF COLUMBIA HEIGHTS** (“Seller”), and **REUTER WALTON DEVELOPMENT, LLC**, a Minnesota limited liability company, and/or its permitted assigns (“Buyer”).

RECITALS

A. Seller is the fee owner of that certain northern outlot of the Public Safety Parcel located at 825 41st Avenue NE in Columbia Heights, Minnesota as depicted in green on Exhibit A hereto (the “Land”).

B. Seller desires to sell the Land to Buyer and Buyer desires to purchase the Land from Seller pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Seller and Buyer hereby agree as follows:

1. Sale of Property. Subject to compliance with the terms of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the following property: The Land, together with (i) any improvements located on the Land (“Improvements”), and (ii) any easements and rights benefiting or appurtenant to the Land, including Seller’s rights in any vacated or existing public rights of way abutting the property (“Appurtenances”) (the Land, Improvements and Appurtenances are collectively the “Property”), subject only to Permitted Encumbrances (as defined below).

2. Earnest Money. Within 2 days after the date of full execution and delivery of this Agreement, Buyer shall deposit \$10,000 (such deposit together with the interest earnings thereon is referred to herein as the “Earnest Money”) to be deposited with and held in trust in an interest bearing account (all interest earned thereon shall be credited to Buyer) by First American Title Company (the “Title Company”) until applied to the Purchase Price at Closing (as defined in Section 6 below) or otherwise disbursed to Buyer or Seller as required in this Agreement. The Earnest Money shall be disbursed as follows:

(a) If Seller terminates this Agreement pursuant to Section 22 hereof because of Buyer’s default, the Earnest Money shall be disbursed to Seller upon such termination. If Buyer terminates this Agreement pursuant to Section 22 hereof because of Seller’s default, the Earnest Money shall be disbursed to Buyer upon such termination.

(b) If Buyer terminates this Agreement due to any casualty or condemnation pursuant to Section 13 hereof, the Earnest Money shall be disbursed to Buyer upon such termination.

(c) If Buyer terminates this Agreement on or before the Due Diligence Contingency Date, the Earnest Money shall be disbursed to Buyer upon such termination.

(d) Notwithstanding anything contained herein, if Buyer proceeds to Closing, all Earnest Money shall be credited to Seller in part payment of the Purchase Price, and the Earnest Money shall be disbursed to Seller at Closing.

3. Purchase Price. The purchase price for the Property shall be \$450,000 (the "Purchase Price"). The Purchase Price shall be paid as follows:

- (a) The crediting of the Earnest Money to Seller; and
- (b) The balance to be paid by wire transfer or other immediately available funds.

4. Buyer's Contingencies. Buyer's obligation to close on the transaction contemplated hereunder is contingent upon the occurrence of the events described below.

- (a) On or before June 1, 2021 (the "Due Diligence Contingency Date"):
 - (i) Title and Survey. The condition of title and the survey shall have been found acceptable to Buyer, or been made acceptable, in accordance with the requirements and terms of Section 5 below.
 - (ii) Testing, Investigation. Buyer shall have determined that it is satisfied with the results of all matters disclosed by soil tests, soil borings, engineering inspections, structural and mechanical inspections, surveys, and any and all other reviews, tests or studies of the Property, including tests and inspections relating to asbestos and the adequacy of utilities available to the Property, all such tests, investigations and reviews to be obtained at Buyer's sole cost and expense and Buyer shall obtain Seller's consent prior to conducting such tests or investigations, which consent shall not be unreasonably withheld. Seller shall allow Buyer, and Buyer's agents, access to the Property without charge and at all reasonable times for the purpose of Buyer's investigation and testing the same. In performing such investigation and testing Buyer shall make reasonable efforts to minimize any interference with the Property's operation. Buyer shall pay all costs and expenses of such investigation.
 - (iii) Environmental Investigation. Buyer shall have determined that it is satisfied with the results of all matters disclosed by hazardous waste and environmental reviews of the Property. Seller shall allow Buyer, and Buyer's agents, access to the Property without charge and at all reasonable times for

the purpose of Buyer's investigation and testing the same. All such tests, investigations and reviews will be obtained at Buyer's sole cost and expense and Buyer shall obtain Seller's consent prior to conducting such tests or investigations, which consent shall not be unreasonably withheld. In performing such investigation and testing, Buyer shall make reasonable efforts to minimize any interference with the operation of the Property. Buyer shall pay all costs and expenses of such investigation and testing.

(iv) Document Review. Within 5 business days of the Effective Date, Seller shall provide Buyer with true and correct copies of all documents and materials in Seller's possession relating to the Property, including but not limited to:

- Current and prior year's property tax statements
- Any title evidence or survey of the Property
- Written notices received from any governmental organization of any violation regarding operation of the Property
- Engineering and environmental inspection reports, any environmental remediation plans, any no-action letters or other documentation relating to completion of environmental remediation at the Property
- Phase I and Phase II reports

v. Governmental Approvals. Buyer shall have received any and all necessary governmental approvals for its proposed redevelopment of the Property into a multi-family housing project financed by low income housing tax credits in its sole discretion (the "Project"). .

vi. Financing. Buyer shall have received commitments for any and all of the necessary financing for its proposed redevelopment of the Property in its sole discretion, including but not limited to low income housing tax credits.

(b) On or before the Closing Date (the "Final Contingency Date"):

(i) Representations and Warranties. Seller's representations and warranties contained in this Agreement must be accurate in all material respects now and on the Closing Date as if made on the Closing Date and Seller shall have delivered to Buyer at closing a certificate dated the Closing Date certifying that such representations and warranties are true as of the Closing Date ("Update Certificate").

- (ii) Material Changes. There shall have been no material adverse changes in the operation or physical condition of the Property in the period between the Effective Date of this Agreement and the Closing Date.
- (iii) Title Policy. On or before the Closing Date, Buyer shall have obtained from the Title Company a proforma title policy or a suitably marked up Title Commitment (as defined herein) initialed by the Title Company in the form required by this Agreement.

For purposes herein the Due Diligence Contingency Date and the Final Contingency Date shall be individually and collectively referred to as a "Contingency Date." If any contingency set forth in this Section 4 has not been satisfied on or before the applicable Contingency Date, then this Agreement may be terminated, at Buyer's option, by written notice from Buyer to Seller and the Earnest Money shall be returned to Buyer in accordance with Section 2 above. Such notice of termination must be given at any time not later than the applicable Contingency Date. All the contingencies set forth in this Section 4 are specifically stated and agreed to be for the sole and exclusive benefit of Buyer, and Buyer shall have the right to unilaterally waive any contingency in Section 4 by written notice to Seller. Seller agrees to cooperate with and assist Buyer in attempting to satisfy each of the foregoing contingencies. Notwithstanding the foregoing, Buyer shall have one option to extend the Due Diligence Contingency Date by a period of 1 year. Buyer shall exercise such option by (i) delivery of written notice to Seller; and (ii) depositing an additional sum of Earnest Money in the amount of \$10,000 with the Title Company; both of which must be received before the Due Diligence Contingency Date.

5. Seller's Contingencies. Seller's obligation to close on the transaction contemplated hereunder is contingent upon the occurrence of the events described below.

- (a) Buyer will agree by contract to not charge the apartment residents any separate amounts for parking on the Property. This provision applies to all onsite parking, surface and underground. This provision shall continue for the term of the tax credit compliance period.
- (b) Buyer agrees that the food shelf parcel identified in Exhibit A will be a separate tax parcel from the apartment tax parcel. Buyer will subdivide apartment parcel at Buyer's sole cost.
- (c) A shared parking agreement for food shelf parking shall be established covering the parking spaces immediately adjacent to the food shelf on the Buyer's surface parking lot. This shared parking agreement shall be established at the time the separate food shelf tax parcel is created. The shared parking agreement shall provide for 10 shared surface parking stalls for as long as the food shelf owns the adjacent property.

Final review and approval of the conveyance of the Property requires a public hearing by the City Council and conveyance by ordinance.

6.. Title.

(a) Condition of Title. On the Closing Date, Seller shall be required to convey fee title to the Property to Buyer, subject to no liens, easements, encumbrances, conditions, reservations or restrictions other than the Permitted Encumbrances (as defined below).

(b) Title Evidence. The following shall constitute “Title Evidence”:

(i) Title Insurance Commitment. Seller shall obtain, at Seller’s expense, and deliver to Buyer within 15 days after the Effective Date a commitment (the “Title Commitment”) from the Title Company for an Owner’s Policy of Title Insurance, together with legible copies of all documents, maps and plats referenced therein, in an amount requested by Buyer.

(ii) Survey. Buyer may order, at Buyer’s expense, within 15 days of receipt of the Title Commitment, an ALTA survey of the Property from a registered land surveyor properly licensed to practice in Minnesota and acceptable to Buyer (the “Survey”).

(c) Buyer’s Objections. Within 10 days after receiving the last of the Title Commitment and Survey (collectively, the “Title Evidence”), Buyer shall make written objections (“Objections”) to the form and/or contents of the Title Evidence. Buyer’s failure to make Objections within such time period will constitute waiver of objections, except that Buyer shall not be deemed by virtue of failure to so object to have waived any proper objection relating to any consensual lien on the Property. Any matter shown on such Title Evidence and not included in Buyer’s Objections (other than such consensual liens) shall be a “Permitted Encumbrance” hereunder.

(d) Seller Cure Period. Seller shall have 10 days after receipt of the Objections to cure the Objections. Seller shall use its best efforts to correct any Objections. To the extent an Objection can be satisfied by the payment of money, Buyer shall have the right to apply a portion of the cash payable to Seller at the Closing to satisfy such Objection and the amount so applied shall reduce the amount of cash payable to Seller at the Closing. If the Objections are not cured within such 10-day period, Buyer’s options will be to do the following: (i) terminate this Agreement by written notice to Seller and the Earnest Money shall be disbursed to Buyer; (ii) waive the Objections and proceed to close; or (iii) give Seller an extension to correct any Objections, which extension shall postpone the Closing Date as necessary.

7.. Closing. The consummation of the purchase and sale transaction contemplated by this Agreement (the “Closing”) shall occur on or before 60 days after the Due Diligence Contingency Date as it may be extended (the “Closing Date”), at such place as Buyer and Seller may agree. Seller shall deliver possession of the Property to Buyer on the Closing Date.

8.. Seller's Closing Obligations. On the Closing Date, Seller shall execute and/or deliver to Buyer the following items, which are referred to as "Seller's Closing Documents." Seller's Closing Documents shall be duly executed and, where appropriate, be in recordable form.

(a) Deed. A warranty deed (the "Deed"), conveying the Property to Buyer, free and clear of all encumbrances, except the Permitted Encumbrances.

(b) Evidence of Termination. Evidence of the termination of any agreements related to the Property effective as of the Closing Date, except to the extent Buyer has specifically agreed to assume the same and acknowledged its continuing obligation therefor.

(c) Update Certificate. Seller's Update Certificate.

(d) Seller's Affidavit. An Affidavit by Seller indicating that on the Closing Date, other than the Permitted Encumbrances, there are no outstanding, unsatisfied judgments, divorce proceedings, tax liens or bankruptcies against or involving Seller or the Property; that there has been no skill, labor or material furnished to the Property for which payment has not been made or for which mechanics' liens could be filed; and that there are no unrecorded interests in the Property, together with whatever standard owner's affidavit and/or indemnity (ALTA form) that may be required by the Title Company to issue an Owner's Policy of Title Insurance with the standard exceptions waived.

(e) FIRPTA Affidavit. A non-foreign affidavit as required by applicable law.

(f) Other Documents. A closing statement and all other documents necessary to transfer the Property to Buyer free and clear of all encumbrances except for the Permitted Encumbrances and to allow the Title Company to record the Deed and issue the Title Insurance Policy required by this Agreement.

(g) Possession. Possession of the Property, free of possession by Seller or anyone occupying the Property pursuant to agreements with Seller.

(h) Keys. All keys and lock and safe combinations relating to the Property.

9.. Buyer's Closing Obligations. On the Closing Date, Buyer will execute and/or deliver to Seller the following, which (in the case of documents) are referred to as "Buyer's Closing Documents." Buyer's Closing Documents shall be duly executed and, where appropriate, be in recordable form.

(a) Purchase Price. The remaining balance of the Purchase Price, by wire transfer or other immediately available funds.

(b) Other Documents. A closing statement and all other documents necessary to transfer the Property to Buyer free and clear of all encumbrances except for the Permitted Encumbrances and to allow the Title Company to record the Deed and issue the Title Insurance Policy required by this Agreement.

10.. Costs and Prorations. Seller and Buyer agree to the following prorations and allocation of costs regarding this Agreement:

a) All real estate taxes due and payable for all years prior to Closing shall be paid by Seller. Seller shall pay all special assessments levied or pending as of the Closing Date. Real estate taxes for the year of Closing shall be prorated between Buyer and Seller based on the most recent tax bill, so that Seller pays that portion of the real estate taxes payable up to and including the Closing Date and Buyer pays that portion of the real estate taxes payable after the Closing Date. Buyer shall pay all real estate taxes due and payable in years following the Closing Date. Buyer shall pay all special assessments levied or pending after the Closing Date.

(b) Seller shall pay all title charges for the issuance of the Title Commitment. Buyer shall pay for the Survey. Buyer shall pay for any Title Policy premium for the owner's policy of title insurance, including any requested endorsements.

(c) Buyer shall pay all costs of recording the Deed and Seller shall pay for the cost of recording any other documents necessary to convey the Property as required by this Agreement.

(d) Seller shall pay the deed tax and Buyer shall pay the mortgage registry tax, if any, in connection with the Closing.

(e) Any closing fee payable to the Title Company or escrow fees shall be shared equally by Seller and Buyer.

(f) All utility bills, charges, and other operating costs of the Property (other than real estate taxes and special assessments) shall be allocated between Seller and Buyer as of the Closing Date, so that Seller pays that portion of the bills, charges, and other operating costs due and payable on or before the Closing Date and Buyer pays that portion of the bills, charges, and other operating costs due and payable after the Closing Date.

(g) Each of the parties will pay its own attorneys' fees, except that a party defaulting under this Agreement or any closing document will pay the actual, reasonable attorneys' fees, court costs and any and all other costs incurred by the non-defaulting party to enforce its rights regarding such default.

11. Operation Prior to Closing. During the period from the date of Seller's acceptance of this Agreement to the Closing Date (the "Executory Period"), Seller shall:

(a) Operate and maintain the Property in the ordinary course of business in accordance with prudent, reasonable business standards, including maintaining liability insurance in the forms and amounts in place on the Effective Date.

(b) Not convey or otherwise transfer any of the Property without the consent of Buyer.

(c) Not execute any contracts, leases or other agreements regarding the Property during the Executory Period that do not terminate on or before the Closing Date without the written consent of Buyer, which consent may be withheld by Buyer in its sole discretion.

(d) Promptly deliver to Buyer a copy of any notice, consent, waiver, request or other communication Seller receives from any public or private entity with respect to any of the Property.

(e) Not sell, dispose, transfer, assign or otherwise remove any of the Property except Property that is replaced with Property of equivalent or greater value in the ordinary course of business without the consent of Buyer.

(f) Timely pay and discharge all bills and monetary obligations and timely and properly perform all of its obligations and commitments under all existing contracts and agreements pertaining to the Property, except as to amounts or obligations which Seller contests in good faith.

(g) Not enter into any negotiations with or solicit any offer, inquiry or proposal from any other person with respect to the sale, merger or other acquisition of the Property.

12.. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

(a) Authority. Seller has the requisite power and authority to enter into and perform this Agreement and those Seller's Closing Documents signed by it; the foregoing documents have been or will be duly executed and delivered; the execution, delivery and performance by Seller of such documents do not conflict with or result in a violation of any judgment, order, or decree of any court or arbiter or any other agreements of any nature to which Seller is a party; such documents are or will be when signed valid and binding obligations of Seller and are enforceable in accordance with their terms.

(b) Contracts. Seller has not entered into any contracts for the sale of the Property other than this Agreement. Seller has received no notice of and has no knowledge of any rights of first refusal, right of first offer or options to purchase any of the Property or any other rights or agreements that may delay or prevent this transaction. No person or entity is entitled to possession of any of the Property other than Seller. There is in effect no contract or agreement relating to occupancy, management or operation of the Property that cannot be terminated on or prior to the Closing Date.

(c) Compliance. The Property is in compliance with applicable law, without the benefit of any “grandfathering” or similar variance. Seller has received no notice or complaint from any governmental agency or subdivision of a governmental agency of any legal or regulatory noncompliance related to the Property, including but not limited to noncompliance with health, safety, fire, electrical or building codes or environmental, zoning, planning or other land use requirements. Seller has received no notice of any default or breach of any covenants, conditions, restrictions or easements affecting the Property. Seller has not received any notice or complaint from any insurance underwriter relating to the condition or operation of the Property. If Seller receives any such notice at any time prior to Closing, Seller shall notify Buyer of such notice and, at Buyer’s request, provide a copy of such notice, if in writing, to Buyer,

(d) Subdivision. On or before the Due Diligence Contingency Date, the Property shall constitute a separate parcel of record for real estate tax assessment and conveyancing purposes, and shall comply with applicable law governing the subdivision of real property.

(e) Mechanic’s Liens. There has been no labor or materials of any kind furnished to or for the benefit of the Property for which payment in full has not been made or with respect to which a construction lien may be filed against the Property.

(f) Proceedings; Litigation. There are no existing proceedings, or, to the best of Seller’s knowledge, any threatened proceedings that would affect the Property or the use thereof by Buyer, either administrative or judicial, and there is no litigation or condemnation proceeding pending, or, to the best of Seller’s knowledge, threatened, that would affect the Property or the use thereof by Buyer. Seller has received no notice of any contemplated special assessments against the Property, and there is presently no real estate tax protest or similar tax abatement proceeding pending with respect to the Property.

(g) Other Agreements. There is no note, mortgage, security agreement, or other agreement affecting the Property that requires the consent of any party (or Seller shall provide such consent if necessary at its expense) or requires a change in the terms and conditions of the underlying financing as a result of the sale contemplated by this Agreement, and that there are no defaults existing in any such agreements affecting the Property.

(h) Hazardous Materials. Seller has not stored, released, disposed of, nor permitted any other party to store, release or dispose of, and to the best of Seller’s knowledge there has not been any storage, release or disposal of, any Hazardous Material in, on, about or from the Property, and Seller has no knowledge of the existence in, on or about the Property of any Hazardous Material. The term “Hazardous Materials” means asbestos, urea formaldehyde, polychlorinated biphenyls, nuclear fuel or materials, radioactive materials, explosives, known carcinogens, petroleum products and by-products, and any pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or a contaminant in, or the release or disposal of which is

regulated by, any federal, state, county, municipal, local or other statute, ordinance or regulation that relates to or deals with human health or the environment, including, without limitation, all regulations promulgated by a regulatory body pursuant to any such statute, ordinance, or regulation, including, but not limited to, the Comprehensive Environmental Response and Liability Act of 1980 (“CERCLA”), 42 U.S.C. § 9601, as amended.

(i) Agents and Employees. No employees or management or maintenance personnel or agents employed in connection with operating of the Property have the right to continue such employment after the Closing Date.

(j) Wells; Storage Tanks. There are no wells or individual sewage treatment systems located on the Property, and there are no underground or above ground storage tanks in, on or about the Property.

(k) Documents True and Correct. All documents delivered by Seller to Buyer in connection with the Property are true, complete and correct in all material respects.

(l) Private Restrictions. To the best of Seller’s knowledge and except as disclosed in the Title Commitment, there are no and will be no private restrictions that affect the uses that may be made of the Property by Buyer, including but not limited to agreements to subject architectural plans to an association or other group; and provisions requiring the joining with others in group actions.

(m) Beneficial Easements, Licenses and Permits. There are no beneficial easements, licenses or permits that are owned or possessed by Seller that are necessary or useful for the operation of the Property that are not being conveyed pursuant to this Agreement.

(n) Methamphetamine Disclosure. To the best of Seller’s knowledge, methamphetamine production has not occurred on the Property.

(o) Property Condition. The Property is in fair condition and repair and is free of structural defects.

Seller shall indemnify Buyer, its successors and assigns, against, and shall hold Buyer, its successors and assigns harmless from, any expenses or damages, including reasonable attorneys’ fees, that Buyer incurs because of the breach of any of the above representations and warranties, whether such breach is discovered before or after Closing. Each of the representations and warranties herein contained shall survive the closing or the early termination or the merger of this Agreement. Consummation of this Agreement by Buyer with knowledge of any such breach by Seller will not constitute a waiver or release by Buyer of any claims due to such breach. Seller’s representations and warranties contained in this Section must be accurate in all material respects now and on the Closing Date as if made on the Closing Date, and Seller shall deliver an Update Certificate to Buyer at Closing.

13.. Representations and Warranties by Buyer. Buyer represents and warrants to Seller that Buyer has the requisite power and authority to enter into this Agreement and Buyer's Closing Documents signed by it; such documents have been duly authorized by all necessary action on the part of Buyer and have been duly executed and delivered; that the execution, delivery and performance by Buyer of such documents do not conflict with or result in violation of any judgment, order or decree of any court or arbiter to which Buyer is a party; such documents are valid and binding obligations of Buyer, and are enforceable in accordance with their terms. Buyer will indemnify Seller, its successors and assigns, against, and will hold Seller, its successors and assigns, harmless from, any expenses or damages, including reasonable attorneys' fees, that Seller incurs because of the breach of any of the above representations and warranties, whether such breach is discovered before or after Closing. Each of the representations and warranties herein contained shall survive the closing or the early termination or the merger of this Agreement. Consummation of this Agreement by Seller with knowledge of any such breach by Buyer will not constitute a waiver or release by Seller of any claims due to such breach.

14.. Casualty; Condemnation.

(a) *Casualty.* The risk of loss from any casualty shall remain with Seller until the Closing, and Seller agrees to maintain insurance on the Property in the form and amount in place on the Effective Date through the Closing. If, prior to the Closing Date, any casualty occurs with respect to all or any material portion of the Property, Seller shall immediately give notice to Buyer of such fact and at Buyer's option (to be exercised within 30 days after Seller's notice), as Buyer's remedy, either (i) this Agreement shall terminate and the Earnest Money returned to Buyer, in which event neither party will have further obligations under this Agreement, or (ii) the Purchase Price shall be reduced by an amount equal to the estimated cost to repair the Property less any insurance proceeds paid to Buyer at Closing. If Buyer does not give such notice within 30 days, then there shall be no reduction in the Purchase Price, and Seller shall pay to Buyer on the Closing Date all of such insurance proceeds or, if the amount of insurance proceeds is not yet known, Seller shall (i) pay to Buyer on the Closing Date a reasonable estimate of such insurance proceeds, (ii) assign to Buyer on the Closing Date all of Seller's right, title and interest in and to any remaining insurance proceeds and obtain any necessary consents of Seller's lenders and insurance agent to such assignment, and (iii) use its best efforts to ensure that Buyer receives such remaining insurance proceeds, including, but not limited to, working directly with its insurer to obtain the remaining insurance proceeds.

(b) *Condemnation.* If, prior to the Closing Date, any eminent domain proceedings are commenced against all or any portion of the Property, Seller shall immediately give notice to Buyer of such fact and at Buyer's option (to be exercised within 30 days after Seller's notice), as Buyer's sole remedy, this Agreement shall terminate and the Earnest Money returned to Buyer, in which event neither party will have further obligations under this Agreement. If Buyer does not give such notice within 30 days, then there shall be no reduction in the Purchase Price, and Seller shall assign to Buyer on the Closing Date all of Seller's right, title and interest in and to any award made

or to be made in the condemnation proceedings. Prior to the Closing Date, Seller shall not designate counsel, appear in, or otherwise act with respect to the condemnation proceedings without Buyer's prior written consent, which consent shall not be delayed or withheld unreasonably.

15.. Brokers' Commission. Neither party is represented by a broker in connection with the purchase transaction contemplated herein.

16.. Survival. All of the terms of this Agreement will survive and be enforceable after the Closing and delivery of the Deed.

17.. Notices. Any notice required or permitted to be given by any party to the other shall be given in writing, and shall be (i) hand delivered to the receiving party (or any officer of such party), or (ii) mailed by United States registered or certified mail, return receipt requested, postage prepaid, (iii) properly deposited with a nationally recognized, reputable overnight courier, properly addressed as follows; or (iv) emailed:

If to Seller: The City of Columbia Heights
590 40th Avenue NE
Columbia Heights, MN 55421
Attn: _____
Email address: _____

If to Buyer: Reuter Walton Development, LLC
1710 West Lake Street, Suite 100
Minneapolis, MN 55408
Attn: Kyle Brassler, Developer
With a copy to: Anne Stephenson, General Counsel
Email address: kbrasser@reuterwalton.com
anne@reuterwalton.com

If to Title: First American Title Insurance Company
Company 801 Nicollet Mall, Suite 1900
Minneapolis, MN 55402
Tel: (612) 305-2005
Attn: Jim Erickson
Email address: jerickson@firstam.com

Notices shall be deemed effective on the date of receipt. For purposes of this Agreement, any notice shall be deemed to be received on the same day as sent with respect to hand delivery or e-mail delivery, shall be deemed to be received on the first business day after the date sent with respect to delivery by overnight courier, and shall be deemed to be received on the third business day after the date sent with respect to delivery by mail. Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner above

specified, at least 10 days prior to the effective date of such change. Any notice delivered under this Section shall also be delivered by e mail to the e mail address of the applicable party.

18.. Entire Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any and all other oral or written agreements, negotiations, understandings and representations between the parties regarding the Property. There are no verbal or written side agreements that change this Agreement.

19.. Amendment; Waiver. No amendment of this Agreement, and no waiver of any provision of this Agreement, shall be effective unless set forth in a writing expressing the intent to so amend or waive, and the exact nature of such amendment or waiver, and signed by all parties (in the case of amendment) or the waiving party (in the case of waiver). No waiver of a right in any one instance shall operate as a waiver of any other right or as a waiver of such right in a later or separate instance.

20.. Binding Effect. This Agreement binds and benefits the parties and their successors and assigns.

21. Controlling Law. This Agreement has been made under the laws of the State of Minnesota, and such laws will control its interpretation and effect.

22. Assignment. Buyer may assign its rights under this Agreement without the consent of Seller to an entity formed by Buyer to acquire title to the Property. Seller may not assign its rights under this Agreement without Buyer's consent.

23. Remedies. If Buyer defaults under this Agreement, Seller shall have the right to terminate this Agreement by giving 30 days advance written notice to Buyer in the manner required by this Agreement. If Buyer fails to cure such default within 30 days of the date of such notice, this Agreement will terminate and Seller shall be entitled to receive the Earnest Money. The termination of this Agreement and the receipt of the Earnest Money will be the sole remedies available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance. If Seller defaults under this Agreement, Buyer's sole options are to either bring an action for specific performance or to terminate this Agreement upon written notice to Seller and receive the Earnest Money.

24. Counterparts. For the convenience of the parties, any number of counterparts hereof may be executed and each such executed counterpart shall be deemed an original, but all such counterparts together shall constitute one and the same Agreement.

25. Time of the Essence. Time is of the essence with respect to all dates, deadlines and other terms and conditions under this Agreement.

[The remainder of this page has been left blank intentionally. Signature page follows.]

Seller and Buyer have executed this Agreement as of the date first written above.

SELLER:

THE CITY OF COLUMBIA HEIGHTS

By: _____

Name: _____

Its: _____

BUYER:

REUTER WALTON DEVELOPMENT, LLC

By: _____

Nicholas Walton, President

:

EXHIBIT A

Property Depiction



ACKNOWLEDGEMENT OF TITLE COMPANY

The Title Company hereby accepts the Earnest Money in the amount of \$10,000 from Buyer and agrees to deposit and disburse the Earnest Money in accordance with this Agreement.

ACKNOWLEDGED AND AGREED TO BY:

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____

Its: _____

Date: _____