Introduced by _____

First Reading _____ Second Reading _____

Ordinance No. _____ Council Bill No. _____B 61-14_____

**AN ORDINANCE**

authorizing the City Manager to execute a development agreement with Columbia Properties II, LLC as it relates to property located on the south side of Conley Avenue, between Fourth Street and Fifth Street; directing the City Clerk to have the development agreement recorded; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a development agreement with Columbia Properties II, LLC as it relates to property located on the south side of Conley Avenue, between Fourth Street and Fifth Street. The form and content of the development agreement shall be substantially in the same form as set forth in "Attachment A" attached hereto.

SECTION 2. The City Clerk is authorized and directed to have a certified copy of the development agreement recorded in the office of the Boone County Recorder of Deeds.

SECTION 3. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

ATTEST:

_____ _____

City Clerk Mayor and Presiding Officer

APPROVED AS TO FORM:

_____

City Counselor

# Development Agreement

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into on this ____ day of _____, 2014 (the "Effective Date") by Columbia Properties II, LLC, a Delaware limited liability company (the "Developer") and the **City of Columbia**, a municipal corporation (the "City") (individually, a "Party," collectively, the "Parties").

WHEREAS, Developer is the owner of the tract of land legally described on Exhibit A, which is attached hereto and incorporated herein by this reference (the "Developer Tract"); and

WHEREAS, the current zoning of the Developer Tract is Planned Development District PUD-90 and City approved a site plan in connection with such planned development district for The Residences at Fifth and Conley on July 1, 2013 pursuant to Ordinance 21728 (the "Site Plan"); and

WHEREAS, the Developer and the City desire that the Developer Tract be redeveloped according to the approved Site Plan (the "Project"); and

WHEREAS, prior to issuance of a building to construct the Project, City and Developer desire to ensure adequate utilities and public infrastructure exists to serve the intended use; and

WHEREAS, the Developer and City previously entered into an Unreserved Parking Space License Agreement (the "License Agreement") to ensure adequate parking for residents to supplement the on-site parking constructed as a part of the Project would be available to the residents following completion, a copy of which License Agreement is attached hereto as Exhibit B; and

WHEREAS, the Developer previously agreed to include as part of the Project certain additional transportation enhancements, including a minimum of 90 parking spaces for bicycles within the boundaries of the Developer Tract, a minimum of 100 transit system bus passes and at least one shared car for residents to use all as more fully and completely set forth in the Site Plan for the Project (the "Site Plan") and Ordinance 21728 as previously approved by the City; and

WHEREAS, approval of the Site Plan was conditioned on the issuance of building permits upon submittal of an additional pedestrian impact analysis by Developer together with implementation of any staff recommendations based upon such analysis; and

WHEREAS, Developer conducted and submitted the required pedestrian impact analysis to the City and such analysis concluded there would be no adverse impact on adjacent intersection operations generated by the Project so that no additional intersection improvements are required by City pursuant to such analysis; and

WHEREAS, the City has conducted a survey of existing infrastructure within the overall downtown area, which includes the Developer Tract; and

WHEREAS, City has determined inadequate sanitary sewer facilities exist to serve the proposed increase in the use of all the projects proposed for construction within the overall downtown area; and

WHEREAS, it is critical for Developer to receive the assurances and protections provided by this Agreement in order to proceed with construction of the Project in a timely fashion; and

WHEREAS, establishing the terms and conditions under which the Project may be developed as provided herein will protect and benefit the health, safety, and general welfare of the City and is in the best interest of the public; and

WHEREAS, the Parties desire to mitigate impacts of the Project as such development occurs by further providing for the provision and construction of (or affirming the adequacy of the existing) other public improvements;

NOW, THEREFORE, in consideration of the recitals set forth above, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions**.

a. Applicable Law" means those rules, regulations, official policies, standards and specifications, ordinances and resolutions governing permitted uses, building locations, timing of construction, densities, design, heights, fees, and exactions which are controlled by the City and in force and effect on the Effective Date.

b. "Commencement of Construction" means the issuance of the building permit to authorize physical construction of the Project and shall not include demolition and grading activities on the site related to the Project prior to issuance of the building permit.

c. "Construction Period" means the period of time the Project is under construction. The Construction Period shall commence at the Commencement of Construction and end upon issuance of a certificate of occupancy by the City.

d. "Governmental Authority" or "Governmental Authorities" means any municipal governmental authority, including all executive, legislative and administrative departments and bodies thereof having jurisdiction over the Developer, the Developer Tract, or the Project.

e. "Governmental Requirements" means all laws, ordinances, statutes, executive orders, rules, zoning requirements and agreements of any Governmental Authority that are applicable to the acquisition, renovation, demolition, development, and construction of the Developer Tract and/or Project including, without limitation, all required Permits, approvals and any rules, guidelines or restrictions enacted or imposed by Governmental Authorities.

f. "Permits" means all licenses, permits, approvals, consents and authorizations that Developer is required to obtain from any Governmental Authority to perform and carry out its obligations under this Agreement including but not limited to permits and licenses necessary to demolish, build, open, operate and occupy the Project.

g. "Project Approvals" means required Permits and/or approvals consistent with this Agreement that Developer obtains with respect to the initial development of the Project on the Developer Tract, including, without limiting the foregoing, the following: Site Plan design approval; building design approval; demolition permits, grading permits, building permits, sewer and water connection permits, certificates of occupancy, lot line adjustments as permitted by Applicable Law, and other permits and approvals substantially consistent with the Project that may be sought with regard to the Project.

h. "Term" means the earlier of: (i) the last day of the Construction Period; or (ii) the fifth anniversary date of the Effective Date, unless extended with the written consent of City.

2. **Project Development**. With respect to the use and development of the Project and the Developer Tract, the Parties hereby agree as follows:

a. Developer agrees to begin construction of the Project by the end of the Term pursuant to the terms and provisions herein and City agrees to permit construction of the Project pursuant to Applicable Law. This Agreement shall terminate and the terms and provisions shall be null, void, and of no force or effect and the parties shall have no further obligations hereunder if Developer has not commenced physical construction of the Project by the end of the Term. Upon commencement of physical construction of the Project, the Developer shall continuously and diligently pursue completion of such construction without unnecessary delay.

b. Developer hereby agrees to construct and dedicate to the public the adjacent site sanitary sewer improvements as set forth below and depicted in Exhibit C attached hereto (the "Adjacent Sanitary Sewer"). Developer shall pay for all costs of construction of the Adjacent Sanitary Sewer improvements, including but not limited to design, engineering, plan check, removal, relocation, construction management, inspection, construction and dedication. The Adjacent Sanitary Sewer shall be designed, constructed and dedicated to fully comply with the requirements of Applicable Law prior to the end of the Construction Period. City hereby acknowledges it has received, reviewed and approved a complete set of engineered plans for the Adjacent Sanitary Sewer improvements and Developer is authorized to construct such improvements in accordance with such approved plans as set forth in the Permit for Construction of Sanitary Sewer attached hereto as Exhibit D.

c. Developer hereby agrees to contribute $150,000 to the reconstruction of the connecting sanitary sewer main depicted in Exhibit E attached hereto (the "Connecting Sanitary Sewer"). Subject to the public improvement process requirements set forth in Chapter 22 of the Columbia City Code, the City shall perform the construction and be responsible for all remaining costs of reconstruction of the

Connecting Sanitary Sewer, including but not limited to design, engineering, plan check, removal, relocation, construction management, inspection, construction and dedication of the Connecting Sanitary Sewer improvements. Developer's contribution for the reconstruction of the Connecting Sanitary Sewer shall be made by Developer to City prior to issuance of the building permit to construct the Project. Nothing contained herein shall prohibit City from requiring other developers or property owners to contribute to the cost of reconstruction of the Connecting Sanitary Sewer. Failure of City to construct the Connecting Sanitary Sewer shall not prevent Developer from obtaining a certificate of occupancy following construction of the Project or any other necessary approvals.

d. City agrees to provide such public facilities and services to assure the Developer that it may proceed with and complete development, operation and occupancy of the Project in accordance with the terms of this Agreement and all other approvals of the City related to the Project.

3. **Availability of Public Utility Services**. City and Developer acknowledge that the availability of public utility services of electricity, water, storm water and sanitary sewer capacity is critical to the Project. The Developer has submitted to the City the projected load and flow demands for public utility services to be generated by the Project at the end of the Construction Period as set forth in Exhibit F hereto. The City has reviewed the projected demands set forth in Exhibit F and hereby commits the City will have adequate capacity to support the Project and its intended uses by the end of the Construction Period and that it will not deny Developer the ability to connect to such essential public services to serve the Project at the end of the Construction Period. In no event shall the commitment of the City to reserve or construct adequate capacity to support the Project apply to any modifications to the Project not otherwise approved by the City or extend beyond the Term.

4. **No Conflicting Enactments**. During the Term, the City will not impose on the Project or Developer Tract by action of the City Council any Governmental Requirement (to the extent that the City has authority with respect to a Governmental Requirement), ordinance, resolution, rule, regulation, standard, directive, condition or other measure (each individually, a "City Regulation" and collectively the "City Regulations") that is in conflict with Applicable Law or any approvals provided to Developer or affecting the Developer Tract (the "Project Approvals"), or that reduces the development rights or assurances provided by this Agreement with respect to the development, maintenance, and operation of the Project. Nothing contained herein shall prohibit the City from enacting a Governmental Requirement and imposing the same on the Project and Developer Tract for protection of the health, safety and welfare of the public in the same manner and to the same extent as imposed on the general public. Any change in the following shall not be permitted during the Term without the express written agreement of Developer:

a. Change any land use designation or permitted use of the Developer Tract existing as of the Effective Date;

b. Limit or control the availability of public utilities, services or facilities or any privileges or rights to public utilities, services, or facilities (for example, water rights, water connections or sewage capacity rights, sewer connections, etc.) for the Project,

unless such limitation is necessary to address health and safety issues created by the increase in capacity demanded by the Project which is in excess of the capacity contemplated herein and allowed under the Site Plan;

c. Limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations under set forth in the Site Plan;

d. Apply to the Project any City Regulation otherwise allowed by this Agreement that is not uniformly applied to all similar types of development projects and project sites within the City's Downtown Community Improvement District boundaries;

e. Result in Developer having to substantially delay construction of the Project or require the issuance of additional Permits other than those required by the Project Approvals or Applicable Law;

f. Establish, enact, increase, or impose against the Project or Developer Tract any fees, taxes (including without limitation general, special and excise taxes), assessments or other monetary obligations other than those imposed and applied on all similar types of development projects and project sites within the City's Downtown Community Improvement District boundaries; provided however, if such additional fees, taxes, assessments or other monetary obligations are imposed by City against the Developer Tract, the Developer shall have the right to claim a credit for any payments and construction enhancements made by Developer pursuant to this Agreement;

g. Impose against the Project any condition, dedication or other exaction not specifically authorized by the Site Plan, this Agreement, or Applicable Law and applied uniformly to similar projects and tracts within the City's Downtown Community Improvement District boundaries;

h. Unreasonably limit the timing, processing or procuring of applications and approvals.

Nothing herein shall limit the City's authority to enact ordinances, resolutions, or otherwise pass laws or promulgate rules or regulations with regard to any matter, so long as same does not have the effect of limiting construction of the Project on the Developer Tract within the Term in substantially the same manner as set forth in this Agreement. City expressly retains the right to control and determine all matters relating to the public streets and rights of way without any regard to the impact such decisions may have on the Project or Developer Tract, including but not limited to the granting of right of use permits and/or street closures adjacent to the Developer Tract.

5. **Timing of Project Construction and Completion**. Subject to the following, the Developer shall endeavor in good faith and with reasonable diligence to proceed with and construct the Project during the Term and as described in this Agreement:

a. It is the intent of the Developer to complete construction of the Project by July 31, 2015. The timing, order and rate of development shall be in Developer's sole discretion, except as otherwise provided in the Project Approvals. It shall not be an event of default hereunder if the Project is not constructed during the Term; rather, this Agreement shall terminate in such case without any further action required by the Parties.

b. In light of the foregoing, the Parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time.

c. In no event shall a delay by Developer to complete construction of the Project result in a refund or claim for refund of Developer's contribution for the reconstruction of the Connecting Sanitary Sewer by City.

6. **Waiver**. Failure of any party to this Agreement to insist on the full performance of any of its provisions by the other Party shall not constitute a waiver of such performance unless the Party failing to insist on full performance of the provision declares in writing signed by it that it is waiving such performance. A waiver of any breach under this Agreement by any Party, unless otherwise expressly declared in writing, shall not be a continuing waiver or waiver of any subsequent breach of the same or other provision of this Agreement.

7. **Governing Law**. The laws of the State of Missouri (without regard to conflicts of law) shall govern the validity, construction, enforcement and interpretation of this Agreement.

8. **Headings**. All section headings in this Agreement are for the convenience of the reader only and are not intended, nor shall they be deemed, to define or limit the scope of any provision of this Agreement.

9. **Notices**. All notices, demands, requests, and other communications required or permitted hereunder shall be in writing shall be considered delivered: (a) upon personal delivery to the party to whom the notice is directed; or (b) two (2) business days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows (or to such other address as the Parties may specify by notice given pursuant to this section):

| | |
|---|---|
| To Developer: | Columbia Properties II, LLC<br>Attn: Timothy VanMatre<br>7711 Bonhomme Avenue, Suite 350<br>St. Louis, MO 63105<br>E-mail: tvanmatre@collegiatehousingpartners.com |
| With a Copy to:<br>(which shall not constitute notice) | Kayne Anderson Real Estate Advisors<br>Attn: Russell Reiter<br>One Town Center Road, Suite 300<br>Boca Raton, FL 33486<br>E-mail: rreiter@kaynecapital.com |

| | |
|---|---|
| To City: | City of Columbia<br>Attn: City Manager<br>701 East Broadway<br>Columbia, MO 65201<br>mematthe@gocolumbiamo.com |
| With a Copy to:<br>(which shall not constitute notice) | City of Columbia<br>Attn: City Counselor<br>701 E. Broadway<br>Columbia, MO 65201<br>Email: njthomps@gocolumbiamo.com |

10. **No Adverse Inference**. This Agreement shall not be construed more strongly against one Party or the other. The Parties had equal access to input with respect to, and influence over, the provisions of this Agreement. Accordingly, no rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this Agreement.

11. **Entire Contract and Modification**. This Agreement sets forth all the promises, covenants, agreements, conditions, and understandings between the parties hereto and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, expressed or implied, oral or written, except as herein contained. This Agreement may be modified only by an agreement in writing signed by the Parties.

12. **Third Party Beneficiaries**. There are no third party beneficiaries to this Agreement.

13. **Jurisdiction and Venue**. Legal action concerning any dispute, claim or matter arising out of the Agreement shall be brought only in the Circuit Court of Boone County, Missouri.

14. **Partial Invalidity**. If any provision of this Agreement is for any reason held to be invalid or unenforceable, such provision shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid and/or unenforceable provision had never been contained herein.

15. **Severability**. In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

16. **Gender and Number**. Pronouns and any reference to a person or persons, wherever used herein, and of whatever gender, shall include natural persons, corporations, associations, partnerships and other entities of every kind and character, and the singular shall include the plural and vice versa, wherever and as often as may be appropriate.

17. **Force Majeure**. In the event that either Party shall be delayed, hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs,

labor troubles, inability to procure materials, failure of power, riots, insurrection, the act, failure to act or default of the other Party, war or other reason beyond their control, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

18. **Agreement Runs with the Developer Tract**. This Agreement shall be recorded in the records of Boone County, Missouri and the covenants, rights and obligations contained herein shall run with the Developer Tract. By the recordation of this Agreement, all conditions, terms and obligations of this Agreement are effective as to and binding on the Parties, their successors and assigns with the intention that this Agreement will, in addition to the Parties hereto, govern all future and subsequent owners of all or any portion of the Developer Tract unless and until this Agreement is amended or terminated in accordance with the terms hereof.

19. **Binding Effect; Assignment**. This Agreement is not assignable by any Party to a non-affiliated third party. Developer may assign its rights to any other entity, provided that (i) Developer shall remain jointly and severally liable with the assignee for the obligations contained in this Agreement; (ii) Developer, and any assignee by accepting assignment of this Agreement, expressly agrees to defend and indemnify City from any litigation arising out of the assignment; (iii) written notice of the assignment, including the name of the assignee, is provided to City at least fifteen (15) business days prior to the effective date of such assignment.

20. **Power of the City**. Notwithstanding anything set forth in this Agreement to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the City to act in its capacity as a public body. All financial obligations of the City shall be subject to future appropriation of the City in accordance with Applicable Laws and Governmental Requirements. Further, nothing herein shall relieve Developer from complying with all Applicable Laws and Governmental Requirements.

21. **Time**. Time is of the essence in this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

22. **Sovereign Immunity**. Nothing in this Agreement shall constitute or be construed as a waiver of the City's governmental or official immunity or its officers or employees from liability or suit pursuant to Section 537.600 RSMo.

23. **Authorized Employees.** Developer acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Developer therefore covenants that it is not knowingly in violation of Section 285.530(1), RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on any project which is the subject of this Agreement, and that its employees are lawfully eligible to work in the United States. Developer will execute an Immigration Law Compliance Affidavit in substantially the same form as attached hereto in Exhibit G and will cause any person or entity performing work on the Project to confirm compliance with Section 285.530(1) and execute an Immigration Law Compliance Affidavit.

24. **Inspection.** The City may conduct such periodic inspections of the Project including any applicable phase as may be generally provided in the City Code or for inspection thereof pursuant to comply with the terms of this Agreement. The Developer shall not deny the City and its officers, employees, agents and independent contractors the right to inspect, upon reasonable prior written request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Project or any applicable phase thereof.

25. **Entire Agreement**. This Agreement (together with the Exhibits attached hereto) constitutes the entire agreement between the Parties concerning the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter between the Parties, none of which shall be considered a part of this Agreement unless expressly incorporated into this Agreement. Without limiting the foregoing, Developer acknowledges that no promise or commitment has been made to it by or on behalf of the City other than as set forth in this Agreement and in any approvals or Permits issued in connection with the Project.

26. **Amendment**. This Agreement shall be amended only in writing and effective when signed by the Parties.

27. **Exhibits**. Each of the Exhibits attached hereto is hereby incorporated by reference into this Agreement.

28. **Further Assurances**. Each of the parties to this Agreement will execute, acknowledge, deliver, file, record and publish such further certificates, instruments, agreements and other documents, and will take all such further action required by law or necessary in furtherance of the purposes and the intent of this Agreement. Each party will do, execute, acknowledge and deliver such further acts, instruments, financing statements and assurances as the other party may reasonably request to accomplish the purposes of this Agreement and to satisfy the requesting party that the other party is capable of fulfilling or has fulfilled its obligations pursuant to this Agreement

29. **Representatives Not Personally Liable**. No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Developer in the event of any default or breach by any Party under this Agreement, or for any amount which may become due to any Party or on any obligations under the terms of this Agreement.

30. **Counterparts**. This Agreement may be executed in several counterparts, each of which is an original and all of which together constitute but one and the same document. A signed copy of this Agreement delivered by facsimile or e-mail shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement as of the date first above written.

**City of Columbia, Missouri** ("City")

By: _____
Mike Matthes, City Manager

Attest:

By: _____
Sheela Amin, City Clerk

Approved as to form:

By: _____
Nancy Thompson, City Counselor

**Columbia Properties II, LLC,** a Delaware limited liability company("Developer")

By: **CHP Investments #1, LLC**, a Missouri limited liability company, its Manager

By:_____
Name: Charles E. Gillum
Title: Manager

State of Missouri )
) ss.
County of Boone )

On this _____ day of _____, 2014, before me personally appeared Mike Matthes, who, upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is an authorized agent for the **City of Columbia, Missouri** and that he has executed this document on behalf of said entity as the free act and deed of said entity, and that he is duly empowered by said entity to execute this document on said entity's behalf.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal at my office in Columbia, Missouri, the day and year first above written.

_____
_____, Notary Public
Commissioned in _____ County, MO

My commission expires _____.

State of Missouri )
) ss.
County of Boone )

On this _____ day of _____, 2014, before me personally appeared _____, who upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is an authorized agent of **Columbia Properties II, LLC**, a Delaware limited liability company, that he executed the foregoing on behalf of said limited liability company, as the free act and deed of said limited liability company, and pursuant to the authority vested in him to execute the foregoing by the members of said limited liability company, that the foregoing is binding in all respects upon said limited liability company, and that said limited liability company is duly empowered to enter into the foregoing.

IN TESTIMONY WHEREOF, I have hereunder set my hand and affixed my seal the day and year first above written.

_____
_____, Notary Public
Commissioned in _____ County, MO

My commission expires _____.

**EXHIBIT A**
**Developer Tract Legal Description**

All of Lot 1 of the Final Plat of Broadhead Place, Plat No. 2, located in NE ¼ of Section 13, Township 48 North, Range 13 West, Columbia, Boone County, Missouri.

EXHIBIT B

Unreserved Parking Space License Agreement

**UNRESERVED PARKING SPACE LICENSE AGREEMENT**
**City of Columbia – 5th & Walnut Parking Garage**
(50 Spaces)

This contract parking agreement (this "Agreement" is made and entered into this 1st day of July, 2013, by and between the **City of Columbia, Missouri**, a municipal corporation, (hereinafter "**Grantor**" or "**Licensor**" or "**City**") with a mailing address of 701 East Broadway, Columbia, MO 65201, and **Collegiate Housing Partners, LLC**, with a mailing address of 7711 Bonhomme, Suite 350, St. Louis, MO 63105 (hereinafter "**Grantee**" or "**Licensee**"):

WHEREAS, Licensee desires to construct a six (6) story one-hundred three (103) unit maximum student housing development at or near 5th Street and Conley Avenue known as The Residences at Fifth and Conley (hereinafter "**Development**") ; and

WHEREAS, the Development shall be located on the real estate (, the "Property") described on Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, Licensee and the City have agreed upon rezoning and PUD Site Plan for The Residences at Fifth and Conley approvals (collectively herein referred to as the **"Rezoning")** for the Property as evidenced by City Ordinance 21728 passed on July 1, 2013 as Council Bill No. B 162-13 A; and

WHEREAS, the Rezoning (via the Statement of Intent) requires a minimum of 115 on-site parking spaces within the Development and a total of 165 parking spaces to be available in a combination of on-site and off-site parking spaces (the **"Parking Requirements"**); and

WHEREAS, City has 50 off-site parking spaces available at the city-owned parking garage located at the intersection of 5th Street and Walnut (hereinafter "**Parking Garage**"); and

WHEREAS, the parties desire to provide for the terms and conditions upon which the City will provide and the Licensee will obtain up to fifty (50) of the Parking Garage parking spaces as off-site spaces to be combined with the on-site parking spaces shown on an approved development plan applicable to the Property to satisfy the Parking Requirements.

NOW THEREFORE, in order to provide and protect the health, safety and welfare of the public and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. LICENSE. Subject to the terms and conditions of this Agreement, City grants Licensee a license to use, in common with other users, licensees and the public, a portion of the Parking Garage. Licensee may use and occupy up to fifty (50) unreserved non-designated parking spaces (hereinafter "**Parking Spaces**") in the Parking Garage on the indicated dates at the indicated times for the rental rates stated herein for the following express purposes and no other purpose: Parking is for normal passenger vehicles only, including pick-up trucks and passenger vans provided they meet height restrictions of the Parking Garage. The City shall in no manner be obligated to provide any particular parking spaces. This license is not transferable to anyone other than tenants, guests and agents of Licensee and may not be assigned to anyone other than a subsequent property owner without prior written consent of the City. Nothing contained herein shall prevent a collateral assignment by Licensee to a lender or subsequent purchaser of the property, neither of which shall require consent from the City.

2. TERM/DAYS/HOURS. Licensee is authorized to park in the Parking Garage seven (7) days per week, twenty-four (24) hours per day. This license shall be from year-to-year beginning the 1st calendar day of the first month during which the Development becomes occupied by tenants, through the last day of the calendar month in the 20th year following that date (hereinafter "**Original Term**") and shall automatically renew for successive one year terms (hereinafter "**Renewal Terms**") thereafter unless sooner terminated by City or modified by the parties by mutual written agreement as herein provided. Except as provided in Paragraphs 5(b) and 5(c) below, neither party may reduce the number of Parking Spaces required under the terms of this Agreement during the first two (2) years of the Original Term. Licensee shall not have a right to unilaterally terminate this agreement during the remainder of the Original Term, but may reduce the number of parking spaces which it is obligated to lease as provided in Paragraph 5 hereof. Licensee may terminate the agreement by giving notice to the City of same at least sixty (60) days prior to the expiration of any Renewal Term by providing written notice to Licensor.

3. PAYMENTS. The annual price paid by Licensee for each of the Parking Spaces shall be the then current annual rates charged by the City for corresponding parking spaces within the Parking Garage. Such fees shall be paid annually, in advance, to the City of Columbia Finance Department within fourteen (14) days of invoice. The annual rate at the time of entering into this agreement in the Parking Garage is: $550 for an uncovered space $605 and $715 for a covered space. If Licensee fails to make the annual payment when due, City has the option to invoice Licensee and Licensee shall pay, in advance, for twelve (12) months at the then current monthly rate. In the event Licensor installs an access gate or other device(s) requiring utilization of an access card, entry device or other feature requiring an additional fee, Licensee shall also be responsible for payment of any necessary security deposits, fees and replacement fees for such devices installed and/or issued by City.

4. ISSUANCE AND DISPLAY OF PARKING PERMITS. City shall issue up to fifty (50) parking permits to Licensee for distribution to its tenants, guests and agents, which must be displayed at all times for any vehicle utilizing the Parking Garage. The initial number of parking permits issued shall be the difference between 165 and the actual number of on-site off street parking spaces (the "Licensed Parking Spaces") provided pursuant to an approved development plan for the Development. There are 124 on site off street parking spaces required by the Rezoning (via the PUD Site Plan), therefore it is anticipated that there shall be 41 (165 – 124 = 41) Licensed Parking Spaces within the Parking Garage issued pursuant to this Agreement. Should the PUD Site Plan be modified to provide for fewer on-site off-street parking spaces (no less than 115) or more on-site off-street parking spaces, the number of Licensed Parking Spaces shall increase to no more than 50 or decrease to as low as zero should there be 165 or more on-site off-street spaces within the Development. Licensee is responsible for the parking permits issued by the City, which may not be duplicated by Licensee. A fee may be assessed for any lost, stolen, or damaged permits. The Director of Public Works (the "Director")and the Licensee may, from time to time, consent to adjustment of the manner of issuance and display of such parking permits as may be necessary or desirable for the convenience of the parties and not in conflict with the Rules and Regulations adopted by the City for operation of the Parking Garage.

5. REDUCTION IN REQUIRED NUMBER OF PARKING SPACES. The number of Licensed Parking Spaces issued to Licensee hereunder may be reduced pursuant to the following:

a. After the first two (2) years of the Original Term, the parties may, by mutual agreement, reduce or eliminate the number of Licensed Parking Spaces provided to Licensee hereunder in the event City finds there is sufficient parking elsewhere to meet the needs of Licensee or there is insufficient demand for such parking by the Development as set forth in this section.

b. No more often than annually, the City agrees that Licensee may request a reduction of the number of Licensed Parking Spaces by up to fifty percent (50%) of the then existing Licensed Parking Spaces upon proof shown that it has actively marketed parking permits for the Licensed Parking Spaces to its tenants and such tenants have not purchased the parking permits from Licensee. A request by Licensee to reduce the parking requirement by more than fifty percent (50%) of the then existing Licensed Parking Spaces shall require Licensee to obtain and provide City with a list of tenants and the make/model/license plate number of every vehicle driven by each tenant together with the parking location and parking permit number assigned to each tenant's vehicle. Failure of Licensee to distribute the parking permits or of Licensee's tenants, guests or agents to use the parking permits purchased by such tenants or agents shall NOT be conclusive evidence that the demand or impact of the Development does not require the number of Parking Spaces required under this Agreement. Any reduction in the required number of parking spaces during the Original Term pursuant to the terms of this Paragraph 5(b) shall be approved by the City Council and shall require a written amendment to this Agreement.

c. At any time, the City agrees that the Director shall modify the number of Licensed Parking Spaces to the amount which is the difference between 165 and the number of on-site off-street parking spaces actually provided within the Development (not including on street parking spaces adjacent to the Development that are available for use by the general public). Licensee shall deliver notice containing the revised number of Licensed Parking Spaces to the Director, which includes sufficient information to permit the Director to verify Licensee's calculation of the revised number of Licensed Parking Spaces.

6. ARTICLES LEFT IN VEHICLES ARE AT THE VEHICLE OWNER'S RISK / NO SECURITY PROVIDED. Licensee understands and expressly agrees that the City will not accept the vehicle in bailment or for safekeeping; nor shall the City be responsible for loss or damage to any vehicle or its contents by fire, vandalism, theft or any other cause, nor for loss, damage or injury by or to other customers or any other individual personal injury of any nature. Licensee expressly acknowledges that the City shall have no duty to provide security, and expressly does not assume any obligation to provide for the security of the Parking Garage or to protect individuals using the Parking Garage, or vehicles or property in the Parking Garage, from criminal activities.

7. RULES AND REGULATIONS. Licensee and its tenants, guests and agents utilizing the Parking Garage shall be subject to the rules and regulations enacted by the City and its Parking Utility for utilization of the Parking Garage as may be in effect or amended from time to time. Licensee expressly agrees to provide notice to its tenants, guest and agents of such rules and regulations.

8. DEFAULT AND TERMINATION. An event of default shall be deemed to occur should any of the following events happen:

a. failure of Licensee to timely pay any fee or invoice required by this agreement;

b. repeated failure of Licensee, or of its tenants, guests or agents, to obey the rules of the City concerning matters of security, safety, or preservation of the Parking Garage, during the term of the Agreement; or

c. failure of the Licensee to comply with any other term or condition of this Agreement, including any addenda or amendments hereto.

In the event of default, the City shall provide Licensee fifteen (15) days written notice of such default and grant Licensee thirty (30) days to cure such default, after which if said default continues, City may, at its sole option, notify the Licensee in writing that it elects to terminate this Agreement immediately without further penalty or liability to the City and in such event City may retain all fees previously paid, or the City may elect to specifically enforce the terms and conditions of this Agreement.

9. FORCE MAJEURE/OCCUPANCY DISRUPTION. If either the Parking Garage or Development or any portion of either structure shall be destroyed or damaged by fire or other calamity or order of a government authority at the Federal, State, or local levels, so as to prevent the use of either structure for the purposes and during the periods specified in this Agreement, or if the use of either the Parking Garage or Development shall be prevented by acts of God, strikes, lockouts, or other industrial disturbances; acts of public enemies; material or labor restriction by any governmental authority, civil riot, flood, drought or any other cause beyond the reasonable control of Licensee or the City, then this Agreement may be terminated by either party upon at least five (5) days written notice, if practicable, to the other party that an event of "Force Majeure" has occurred and prevented performance. In the event of a termination by reason of "Force Majeure", the neither party shall be liable or responsible to the other party for any damages caused thereby, except that any unearned portion of payments due hereunder shall abate, or, if previously paid, shall be refunded within sixty (60) days of the date notice was given under this section.

10. RIGHT TO EJECT. The City reserves the right to eject or cause to be ejected from the Parking Garage any person engaging in or conducting him/herself in a manner disruptive, abusive or offensive to other patrons at or in the Parking Garage. Neither the City, nor any of its officers, agents or employees shall be liable to Licensee for any damages that may be sustained by Licensee through the City's exercise of such right.

11. TEMPORARY CLOSURE OF GARAGE. The City reserves the right to close the Parking Garage for repairs and maintenance. When closing the Parking Garage, the City will seek to avoid any inconveniences to customers. No refunds will be given when the Parking Garage is closed for periods of five (5) consecutive days or less. Any such closure that causes the number of parking spaces available to the Development to be fewer than required by the Rezoning shall not result in a violation of the term, requirements, or conditions of the Rezoning. Any such shortfall in parking shall not be deemed as a violation of any of the terms of the Rezoning or other permits or City Ordinances or other such regulatory requirements related to parking for the Development.

12. TOWING. The parties agree that City, or its assigns, shall have the right, without further notice to Licensee or to Licensee's tenants, employees or guests, to have towed any vehicle that is parked in the Parking Garage illegally or in violation of posted signs.

13. MATTERS NOT COVERED. Any decision concerning a matter not specifically covered by this Agreement, on subject matters reasonably inferable from the terms of this Agreement which do not substantially change the terms of this Agreement, shall rest solely within the reasonable discretion of the Director of Public Works for the City.

14. ENTIRE AGREEMENT. Should any clause, paragraph, sentence or section of this Agreement be determined to be void, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of the Agreement shall not be rendered void and enforceable as a result but rather shall remain in full force and effect.

15. BINDING EFFECT/OBLIGATIONS RUN WITH THE LAND/NO ASSIGNMENT. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns and, as applicable, to heirs and legal representatives of the parties hereto. The obligations herein shall run with the land and written notice thereof by Licensee to any subsequent owner of the Development shall be required, subject to earlier termination or extension as herein described. Licensee may not assign its rights, obligations or duties hereunder to anyone other than a subsequent owner of the land without first receiving the written consent of the City. A covenant or memorandum of this Agreement or this Agreement, in a form, suitable for recording, shall be executed and filed by Licensee in the land records of Boone County evidencing the obligations contained herein.

16. LIABILITY AND INDEMNIFICATION. Licensee shall defend, indemnify and hold harmless the City, and its officials, employees, and agents against any claims, causes of action, liability, or damages, including reasonable attorneys' fees, for (a) bodily injury or death to any person, and (b) damage to property of any person, including, but not limited to that of the City's or Licensee's agents or employees, resulting directly from, or caused by, the willful misconduct or negligence of Licensee or Licensee's agents, employees, contractors, or parking permit holders.

17. NON WAIVER. The City's acceptance of payment or failure to complain of any action, non-action or default of Licensee, whether singular or repetitive, shall not constitute a waiver of any of the City's rights. If Licensee's payment of any sum due the City is accompanied by written conditions or is represented by Licensee to be a settlement or satisfaction of any obligation, the City may accept and deposit such moneys without being bound by such conditions or representations unless the City expressly agrees to such conditions or satisfaction in a separate written instrument. The City's waiver of any right, or any default of Licensee's, shall not constitute a waiver of any other right or constitute waiver of any other default or any subsequent default. The City's agents and representatives do not have authority to make any changes to this Agreement except by authorized written amendments authorized by the City Council.

18. ATTORNEY'S FEES. If the City is required to file suit to collect any amount owed it under this Agreement, the City shall be entitled to collect costs and reasonable attorney's fees for its prosecution of the suit.

19. ENTIRE AGREEMENT/AMENDMENTS. This Agreement constitutes the entire Agreement between the parties, and supersedes any and all previous written or oral agreements or representations between the parties. This Agreement may only be amended in writing signed by both parties.

20. JURISDICTION/VENUE. This Agreement is made under the laws of the State of Missouri, and any disputes that arise under or related to this Agreement shall be governed by the laws of Missouri, without regard to conflicts of law principles. Venue for any legal action involving this Agreement shall be in Boone County, Missouri.

21. NOTICES. Any notice under this Agreement shall be given by certified mail, overnight mail, or by personal delivery, and shall be effective upon receipt. Notice shall be sent to the address for the receiving party as designated herein:

For Licensee: Collegiate Housing Partners, LLC
7711 Bonhomme, Suite 350
St. Louis, MO 63105

For City: City of Columbia
Attn: City Manager
701 E Broadway
PO Box 6015
Columbia, MO 65205

22. AGENT'S AUTHORIZATION. The persons executing this Agreement represent and warrant that they have full authority to execute this Agreement on behalf of his or her respective party.

WHEREFORE, this Agreement is executed by the parties hereto to be effective as of the date first above written.

CITY OF COLUMBIA, MISSOURI

By: _____
Mike Matthes, City Manager

Attest:

_____
Sheela Amin, City Clerk

Approved at to Form:

By: _____
Nancy Thompson, City Counselor

COLLEGIATE HOUSING PARTNERS, LLC

By: _____
Brandt Stiles, Authorized Agent

State of Missouri )
) ss.
County of Boone )

On this 10 day of July, 2013, before me personally appeared Mike Matthes, who, upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is an authorized agent for the **City of Columbia, Missouri** and that he has executed this document on behalf of said entity as the free act and deed of said entity, and pursuant to the authority vested in him to execute this document by said entity, that the foregoing document is binding in all respects upon said entity, and that he is duly empowered by said entity to execute this document on said entity's behalf.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal at my office in Columbia, Missouri, the day and year first above written.

Heather L. Cole
Missouri, Notary Public
Commissioned in Boone County, MO

My commission expires 1-3-16.

HEATHER L COLE
Notary Public, Notary Seal
State of Missouri
Boone County
Commission # 12287591
My Commission Expires January 03, 2016

State of Missouri )
) ss.
County of Boone )

On this 8 day of July, 2013, before me personally appeared Brandt Stiles, who upon his oath and upon being duly sworn, did state, affirm, and acknowledge that he is an authorized agent of **Collegiate Housing Partners, LLC**, a Missouri limited liability company, that he executed the foregoing on behalf of said limited liability company, as the free act and deed of said limited liability company, and pursuant to the authority vested in him to execute the foregoing by the members of said limited liability company, that the foregoing is binding in all respects upon said limited liability company, and that said limited liability company is duly empowered to enter into the foregoing.

IN TESTIMONY WHEREOF, I have hereunder set my hand and affixed my seal the day and year first above written.

Karrie S. Blaze
, Notary Public
Commissioned in St. Louis County, MO

My commission expires 12/15/15.

KARRIE S. BLAZE
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis County
My Commission Expires: December 15, 2015
Commission Number: 11280922

Exhibit A

Legal Description of the Property

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 13, ALL OF TOWNSHIP 48 NORTH, RANGE 13 WEST, COLUMBIA, BOONE COUNTY, MISSOURI AND BEING PART OF THE LAND DESCRIBED BY THE WARRANTY DEEDS RECORDED IN BOOK 3831, PAGE 110, BOOK 1578, PAGE 576, BOOK 2800, PAGE 99, BOOK 1071, PAGE 640, AND BOOK 3197, PAGE 136, AND BEING ALL OF LOTS 1, 2, 3, 4, 5, & 6 OF BROADHEAD PLACE RECORDED IN PLAT BOOK 2, PAGE 45 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE SURVEY RECORDED IN BOOK 316, PAGE 547, AND WITH THE NORTH LINE THEREOF, N 81°28'55"W, 380.14 FEET TO THE NORTHWEST CORNER OF SAID SURVEY AND THE EAST RIGHT-OF-WAY LINE OF FOURTH STREET; THENCE LEAVING THE LINES OF SAID SURVEY AND WITH SAID EAST RIGHT-OF-WAY LINE, N 5°47'00"E, 120.66 FEET; THENCE 22.99 FEET ALONG A 15.00 FOOT-RADIUS CURVE TO THE RIGHT, SAID CURVE HAVING A CHORD N 49°41'05"E, 20.80 FEET; THENCE S 86°24'50"E, 86.94 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CONLEY AVENUE; THENCE LEAVING SAID EAST RIGHT- OF-WAY LINE OF FOURTH STREET AND WITH SAID SOUTH RIGHT-OF-WAY LINE, S 81°18'05"E, 286.16 FEET TO THE WEST RIGHT-OF-WAY LINE OF FIFTH STREET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE OF CONLEY AVENUE AND WITH SAID WEST RIGHT-OF-WAY LINE, S 0°39'45"E, 9.10 FEET; THENCE S 9°23'00"W, 133.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.25 ACRES.

EXHIBIT C

Adjacent Sanitary Sewer Improvements

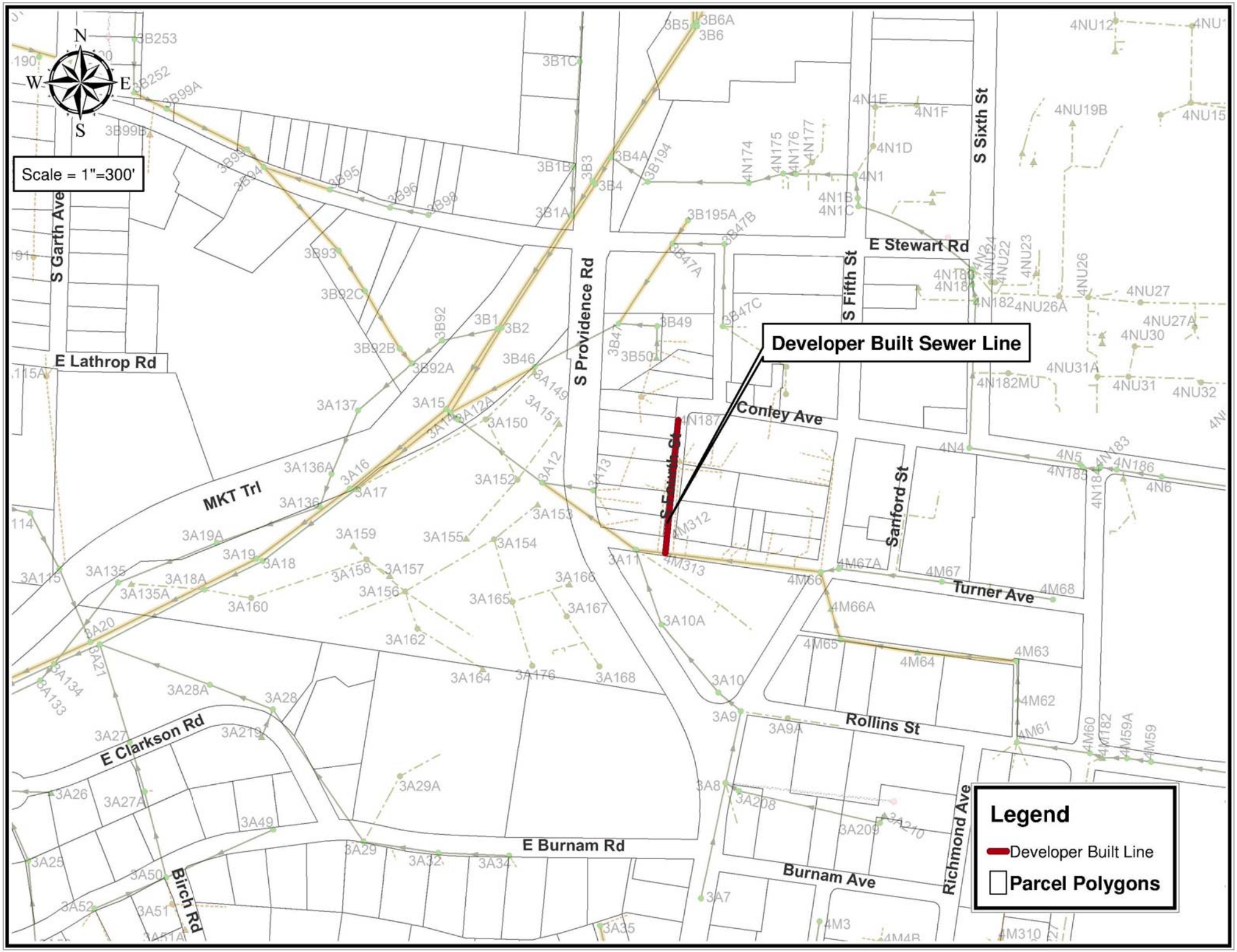
Scale = 1"=300'
N
S
E
W
Developer Built Sewer Line
S Garth Ave
E Lathrop Rd
MKT Trl
S Providence Rd
S Fourth St
S Fifth St
S Sixth St
E Stewart Rd
Conley Ave
Sanford St
Turner Ave
Rollins St
Richmond Ave
Burnam Ave
E Burnam Rd
E Clarkson Rd
Birch Rd
Legend
Developer Built Line
Parcel Polygons

EXHIBIT D

Adjacent Sanitary Sewer Improvements

Permit for Construction of Sanitary Sewer dated 2/14/2014

# City of Columbia, Missouri

Public Works Department

# Permit for Construction of Sanitary Sewer

Date: 2/14/2014

Permission is hereby granted to: Emery Sapp & Sons, Inc

doing work for: Columbia Properties II

to construct: Fifty & Conley (Broadhead Place Plat 2) (Plans dated 2/13/14)

This construction shall be performed in accordance with City of Columbia ordinances, specifications and standards relating to the type of work being done, and with the plans and specifications specially prepared for the work by: Crockett Engineering Consultants

and approved by AAA for the Director of Public Works on: 2/14/2014

This permit will expire 1 year after the above date of issuance of this permit. Contractor shall call Sanitary Sewer Inspection at (573)874-7250 for inspection.

Issued by: A Anderson

EXHIBIT E

Connecting Sanitary Sewer Improvements

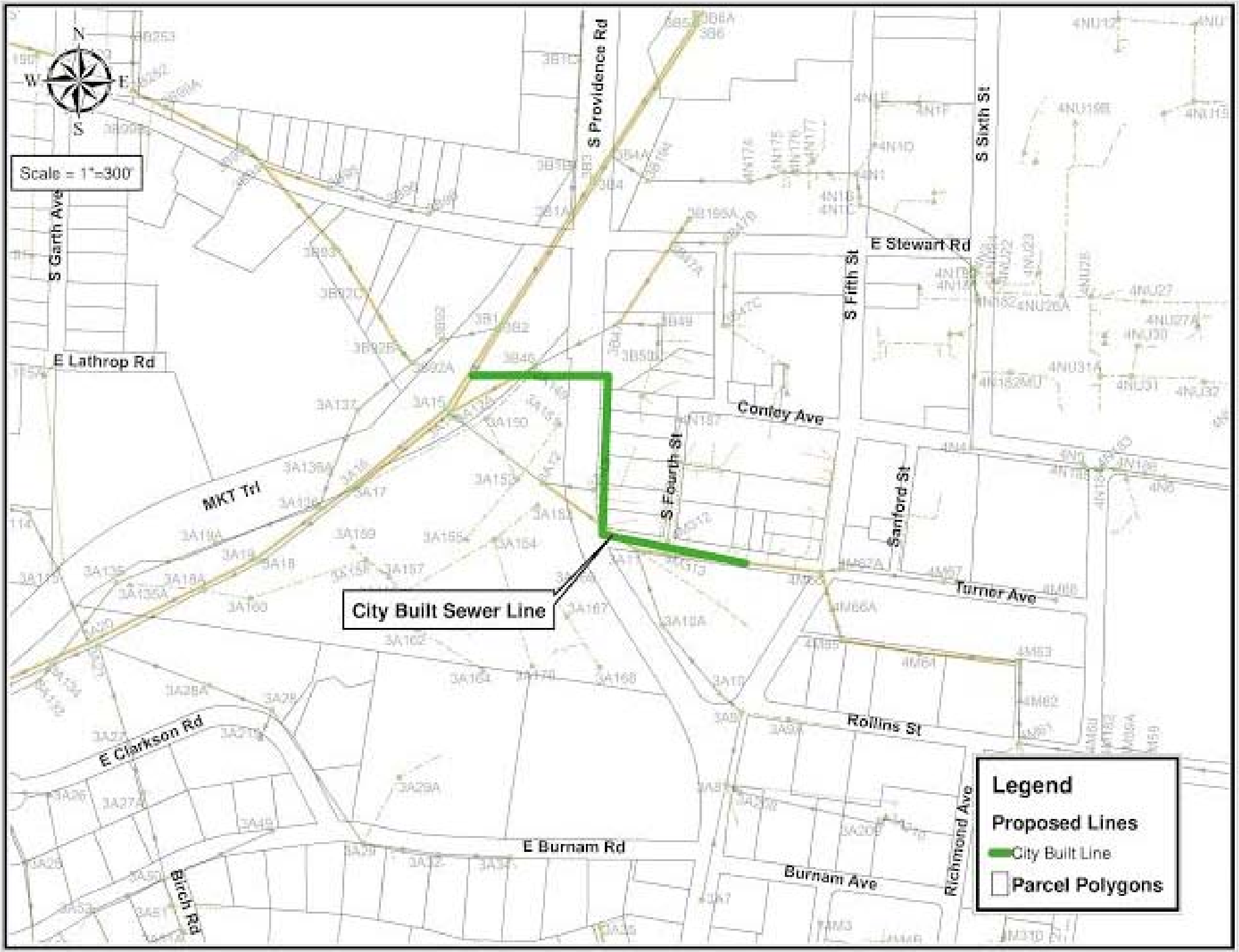
N
W
E
S
Scale = 1"=300'
S Providence Rd
S Sixth St
S Garth Ave
E Stewart Rd
S Fifth St
E Lathrop Rd
Conley Ave
S Fourth St
Sanford St
MKT Trl
Turner Ave
City Built Sewer Line
Rollins St
E Clarkson Rd
E Burnam Rd
Burnam Ave
Richmond Ave
Birch Rd
Legend
Proposed Lines
City Built Line
Parcel Polygons

EXHIBIT F

Developer's Project Estimated Load and Flow Demands

CROCKETT
ENGINEERING CONSULTANTS
2608 North Stadium Boulevard
Columbia, Missouri 65202
(573) 447-0292

March 7, 2014

Tim VanMatre
Collegiate Housing Partners
7711 Bonhomme Ave, Suite 350
St Louis, MO 63105

Dear Mr. VanMatre:

Per your request, we have evaluated the storm sewer flow for your proposed project located at Fifth and Conley in Columbia, MO. Based on the rational method, the peak flow for the 25 year storm for your site is 9.24 cubic feet per second.

Please let me know if you require any additional information.

Sincerely,

Crockett Engineering Consultants

Nathan T. Eckhoff, PE

VRETTOS PAPPAS
CONSULTING ENGINEERS, P.A.
PO BOX 31847, Charlotte, NC 28231
1414-C South Tryon Street
Charlotte, NC 28203
704.372.7755
www.vpce.com

March 10, 2014

Tim M. VanMatre
Collegiate Housing Partners
7711 Bonhomme Avenue, Suite 350
St. Louis, MO 63105

Re: Fifth & Conley Apartment Building
Columbia, MO
Building Electrical & Plumbing Demand Loads

Dear Mr. VanMatre,

Below are our electrical, sanitary and water demand loads for this project. Loads are based on the permit submittal plans, dated 01-29-14, and re-submittal plan changes, dated 03-13-14 and clouded Addendum B.

<u>Electrical</u>
GARAGE/CORRIDORS - (1) 1,200A 208V/3PH. SERVICE
CLUB - (1) 600A 208V/3PH. SERVICE
APARTMENTS
"MC1" - (1) 1,200A 208V/3PH. METER CENTER
"MC2" - (1) 1,600A 208V/3PH. METER CENTER
"MC3" - (1) 1,200A 208V/3PH. METER CENTER

<u>Sanitary</u>
2399.00 DFU

<u>Domestic</u>
1640.70 TFU → 286.9 GPM → 4" domestic line

Sincerely,

Dino Pappas, PE
Vrettos Pappas Consulting Engineers, PA

EXHIBIT G

Immigration Law Compliance Affidavit

STATE OF MISSOURI )
) ss:
COUNTY OF _____ )

**AFFIDAVIT**

(as required by Section 285.530, Revised Statutes of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

**EMPLOYEE:** Any person performing work or service of any kind or character for hire within the State of Missouri.

**FEDERAL WORK AUTHORIZATION PROGRAM:** Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

**KNOWINGLY:** A person acts knowingly or with knowledge,

a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist(; or
(b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

**UNAUTHORIZED ALIEN:** An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

**BEFORE ME,** the undersigned authority, personally appeared _____, who, being duly sworn, states on his/her oath or affirmation as follows:

1. My name is _____ and I am currently the President of _____ (hereinafter "Contractor"), whose business address is_____, and I am authorized to make this Affidavit.

2. I am of sound mind and capable of making this Affidavit, and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and the City of Columbia: _____.

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant saith not.

_____
Signature of Affiant
Printed Name: _____

Subscribed and sworn to before me this _____ day of _____,2011.

_____
Notary Public

My Commission Expires:

**PLEASE NOTE*: Acceptable enrollment and participation documentation consists of the following 2 pages of the E-Verify Memorandum of Understanding: (1) A valid, completed copy of the first page identifying the Contractor; and (2) A valid copy of the signature page completed and signed by the Contractor, and the Department of Homeland Security - Verification Division.

Source: City Manager

Agenda Item No:

**To: City Council**
**From: City Manager and Staff**

**Council Meeting Date:** March 12, 2014

**Re:** Authorizing a Development Agreement with Collegiate Housing Partners, LLC for Provision of Utility Services by the City.

**EXECUTIVE SUMMARY:**

Staff has prepared for Council consideration a development agreement with Collegiate Housing Partners, LLC (CHP) which documents the terms under which the City will provide sanitary sewer services to their already approved Planned Development District PUD-90 project named "The Residences" located at Fifth and Conley.

**DISCUSSION:**

Council is aware of a number of projects in the central city (downtown) area of Columbia that have been put on hold due to the inability of many utility infrastructure systems to support additional capacity. Over the past few weeks, staff has been evaluating ways by which projects could be given a green light to proceed. The project proposed by CHP is the farthest along in the development process, with an approved rezoning and site plan. CHP owns the project site and demolition of the existing structures has occurred.

CHP's project has been placed on hold due to inadequate sewer capacity to serve their student housing development comprising 351 beds. Following much discussion and negotiation, CHP has agreed to contribute $150,000 to fund a portion of the cost necessary for the reconstruction of the City's connecting sanitary sewer main shown in Exhibit E. This cost was derived based on an estimated $450,000 total cost of the sewer main project to be pro-rated based on the number of beds to be served by both the CHP and the proposed adjacent development by American Campus Communities Development, LLC (ACC). It should be noted that this agreement with CHP is not dependent on a similar proposed development agreement with ACC, and that their $150,000 contribution is in addition to standard connection and permit fees required to connect their development tract to the utilities.

**FISCAL IMPACT:**

The City anticipates that the full cost ($450,000) for reconstructing the City's connecting sanitary sewer main would be paid for by developers.

**VISION IMPACT:**
**http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php**

6 Vision Statement: Downtown Columbia is a hip and vibrant district with a diversity of easily accessible businesses, residences, attractions and institutions; it is an exciting gathering place for all types of people.
6.2 Goal: Downtown Columbia will have a variety of safe housing options, including new and revitalized units, for all age groups and income levels with easy access to desirable amenities. Development and design guidelines will be instituted.

**SUGGESTED COUNCIL ACTIONS:**

Approval of the legislation authorizing the development agreement with Collegiate Housing Partners, LLC.

| FISCAL and VISION NOTES: | | | | | |
|---|---|---|---|---|---|
| **City Fiscal Impact**<br>Enter all that apply | | **Program Impact** | | **Mandates** | |
| City's current net FY cost | $0.00 | New Program/ Agency? | No | Federal or State mandated? | No |
| Amount of funds already appropriated | $0.00 | Duplicates/Expands an existing program? | No | **Vision Implementation impact** | |
| Amount of budget amendment needed | $0.00 | Fiscal Impact on any local political subdivision? | Yes | Enter all that apply:<br>Refer to Web site | |
| Estimated 2 year net costs: | | **Resources Required** | | Vision Impact? | Yes |
| One Time | $0.00 | Requires add'l FTE Personnel? | No | Primary Vision, Strategy and/or Goal Item # | 6.0 |
| Operating/ Ongoing | $0.00 | Requires add'l facilities? | Yes | Secondary Vision, Strategy and/or Goal Item # | 6.2 |
| | | Requires add'l capital equipment? | No | Fiscal year implementation Task # | |