


**ORDINANCE NO. 3243**

STATE OF ILLINOIS  
CITY OF COLUMBIA  
FILED FOR RECORD

**AN ORDINANCE TO AUTHORIZE THE MAYOR OF THE CITY OF COLUMBIA, ILLINOIS TO AMEND AN AGREEMENT WITH THE EQUITY TRUST COMPANY CUSTODIAN FBO BRIAN PENDLETON IRA, AND THE EQUITY TRUST COMPANY CUSTODIAN FBO DAVID WITTENAUER IRA TO SUPPORT COOPERATIVE EFFORT TO RECLAIM THE FORMER VIDEO EXCHANGE SITE IN THE CITY OF COLUMBIA, ILLINOIS**

FEB 16 2016

  
City Clerk

WHEREAS, in 1996 the City of Columbia, Illinois (hereinafter "the City") formed the Admiral Parkway Redevelopment Area (hereinafter "the Area") to address blight, especially chronic flooding, in the property adjacent to Illinois Route 3; and

WHEREAS, flooding has negatively impacted the commercial property at 1019 Valmeyer Rd. in Columbia, Illinois (hereinafter "the Site") formerly developed as the Video Exchange and now owned jointly by the Equity Trust Company Custodian fbo Brian Pendleton IRA (hereinafter, "Pendleton IRA") and the Equity Trust Company Custodian fbo David R. Wittenauer IRA (hereinafter, "Wittenauer IRA") so as to prevent current use or redevelopment of the parcel; and

WHEREAS, in 2012 the City adopted a master plan for the Admiral Trost Subdivision Park (hereinafter "Park Plan") that envisioned wetlands restoration as a central part of future development of that property, as well as providing some additional retention for stormwater; and

WHEREAS, as part of the aforementioned Park Plan, removal of dirt is anticipated from the Area which may either be used at other site(s) in the floodplain or disposed of at other site(s) outside the flood plain at a more significant cost; and

WHEREAS, the City, the Pendleton IRA and the Wittenauer IRA agreed that it was necessary and desirable to coordinate efforts to pursue implementation of the Park Plan, reduce flooding in the Area and help to reclaim the Site, as set forth in an Agreement (hereinafter "the Agreement") approved by the City Council under Ordinance 3162 on February 2, 2015; and

WHEREAS, due to conditions outside the control of the City, the Pendleton IRA or the Wittenauer IRA, the tentative schedule set forth in the Agreement must now be Amended as reflected in the attached document.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

**Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

**Section 2.** The City Council of the City of Columbia, Illinois, does hereby authorize an Amendment to the Agreement with the Pendleton IRA and the Wittenauer IRA as set out in the attached document, and does further authorize and direct the Mayor to execute and deliver this Amended Agreement, in the form attached hereto, evidencing such an agreement with the aforementioned parties, which Agreement is hereby approved as to form, in as many counterparts as the Mayor shall determine, and the City Clerk is hereby authorized and directed to attest the same and affix thereto the corporate seal of the City.

**Section 3.** This Ordinance shall be in full force and effect from and after its passage, as provided by law.

Alderman Niemietz moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Huch, Reis, Holtkamp and

Martens.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor, this 16th day of February, 2016.

  
\_\_\_\_\_  
KEVIN B. HUTCHINSON, Mayor

ATTEST:

  
\_\_\_\_\_  
WESLEY J. HOEFFKEN, City Clerk

(SEAL)

**AMENDMENT**  
to  
**MEMORANDUM OF UNDERSTANDING**  
between the  
**CITY OF COLUMBIA**  
the  
**EQUITY TRUST COMPANY CUSTODIAN FBO BRIAN PENDLETON IRA**  
and the  
**EQUITY TRUST COMPANY CUSTODIAN FBO DAVID R. WITTENAUER IRA**

This Amendment to the Memorandum of Understanding ("MOU") adopted pursuant to Ordinance 3162 on February 2, 2015 is made and entered into as of February 16, 2016 ("Effective Date") by and between the following: the Equity Trust Company Custodian fbo Brian Pendleton IRA (hereinafter, "Pendleton IRA"); the Equity Trust Company Custodian fbo David R. Wittenauer IRA (hereinafter, "Wittenauer IRA"); and the City of Columbia, an Illinois municipal corporation (hereinafter, "the City").

WHEREAS, flooding has negatively impacted the commercial property at 1019 Valmeyer Rd. in Columbia, Illinois (hereinafter "the Redevelopment Site"), formerly developed as the Video Exchange and now owned jointly by the Pendleton IRA and the Wittenauer IRA, so as to prevent current use or redevelopment of the parcel; and

WHEREAS, the Pendleton IRA and the Wittenauer IRA jointly own, and wish to jointly develop, the Redevelopment Site, which is nearby and which requires infill dirt to raise the building envelop above the floodplain; and

WHEREAS, Section 12 of the MOU allows that the schedule set out in Section 4 may be amended with the agreement of all parties without modifying the MOU.

THEREFORE, in consideration of common goals that may only be achieved through cooperation, the City, the Pendleton IRA and Wittenauer IRA agree to amend Section 4 of the aforementioned MOU as follows:

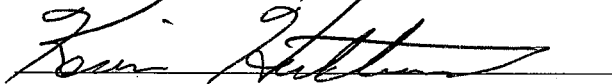
1. The City will secure a 404 permit from the Army Corps of Engineers within twelve (12) months of the date of execution of this MOU;
2. The City will install a larger culvert under Valmeyer Rd within ~~twelve (12)~~ twenty one (21) months of the date of execution of this MOU;
3. The City will initiate, complete and adopt a detailed master plan for development of the Park Site that will provide guidance for excavation of the proposed infill dirt within ~~twelve~~

MEMORANDUM OF UNDERSTANDING - FORMER VIDEO EXCHANGE PROPERTY

- (12) twenty one (21) months of the date of execution of this MOU;
4. The Pendleton IRA and the Wittenauer IRA will secure the conditional 404 permit needed to cover dirt excavation from the Park Site in the floodway within ~~twelve (12)~~ twenty one (21) months of the date of execution of this MOU;
  5. The Pendleton IRA and the Wittenauer IRA will secure Conditional Letter of Map Revision Based on Fill (CLOMR) from FEMA within ~~twelve (12)~~ twenty one (21) months following the execution of this MOU;
  6. The Pendleton IRA and the Wittenauer IRA will remove the structure (the former Video Exchange) and pavement from Redevelopment Site within ~~eighteen (18)~~ twenty seven (27) months following the execution of this MOU (albeit this action will need to be coordinated with the action in 6, below);
  7. The Pendleton IRA and the Wittenauer IRA will excavate and remove infill dirt from the Park Site to the Redevelopment Site so as to raise the entire parcel within ~~twenty four (24)~~ twenty seven (27) months following the execution of this MOU (this action will need to be coordinated with the action in 5, above); and
  8. The Pendleton IRA and the Wittenauer IRA will secure Letter of Map Revision (LOMR) from FEMA within ~~thirty (30)~~ thirty three (33) months following the execution of this MOU.

As evidenced by their agreement to the terms and conditions set forth herein, the parties affix their authorized signatures hereto:

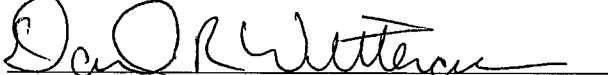
CITY OF COLUMBIA, ILLINOIS

  
Honorable Kevin B. Hutchinson, Mayor

EQUITY TRUST COMPANY CUSTODIAN FBO BRIAN PENDLETON IRA  
50% UNDIVIDED INTEREST

  
Brian D. Pendleton, IRA Account Holder

EQUITY TRUST COMPANY CUSTODIAN FBO DAVID R. WITTENAUER IRA  
50% UNDIVIDED INTEREST

  
David R. Wittenauer, IRA Account Holder