

BILL NO. 5225 (Emergency Measure)

ORDINANCE NO. 5087

AN ORDINANCE OF THE CITY OF RICHMOND HEIGHTS, MISSOURI APPROVING A FIFTH AMENDMENT TO REDEVELOPMENT AGREEMENT BY AND BETWEEN MICHELSON-HADLEY HEIGHTS DEVELOPMENT, L.L.C. AND THE CITY OF RICHMOND HEIGHTS, MISSOURI, FOR THE HADLEY TOWNSHIP REDEVELOPMENT AREA AS AN EMERGENCY MEASURE.

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

SECTION 1. The Fifth Amendment to Redevelopment Agreement attached hereto as Exhibit "A" is approved and the Mayor and Clerk of the City of Richmond Heights, Missouri are hereby authorized and directed to sign and attest to same on behalf of the City of Richmond Heights.

SECTION 2. The Amendment authorized for execution and attestation shall be in substantially the form and contain the words and figures as per Exhibit "A" which is attached hereto and made a part of this Ordinance as if fully set out herein.

SECTION 3. This Ordinance shall take effect and be in full force immediately following its passage and being signed as provided by law. This ordinance is deemed an emergency measure necessary for the immediate preservation of the public peace, health or safety of its residents because it is needed to allow purchase of residences from property owners who desire to move elsewhere and have commitments for other properties.

PASSED and SIGNED this 2nd day of September, 2008.

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JAMES J. BECK  
MAYOR

ATTEST:

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PATRICIA S. VILLMER  
CITY CLERK

APPROVED AS TO FORM:

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KENNETH J. HEINZ  
CITY ATTORNEY

First reading:           September 2, 2008 EMERGENCY MEASURE  
Second reading:       September 2, 2008 EMERGENCY MEASURE

**EXHIBIT A**  
**[Fifth Amendment to Redevelopment Agreement]**

**FIFTH AMENDMENT TO REDEVELOPMENT AGREEMENT**

**THIS FIFTH AMENDMENT TO REDEVELOPMENT AGREEMENT** (this “Fifth Amendment”) is entered into as of the 2nd day of September 2008 (the “Effective Date”), by and between the **CITY OF RICHMOND HEIGHTS, MISSOURI**, an incorporated political subdivision of the State of Missouri (the “City”), and **MICHELSON-HADLEY HEIGHTS DEVELOPMENT, LLC**, a Missouri limited liability company (the “Developer”). *(Words and phrases having a defined meaning in the herein-defined Agreement shall have the same respective meanings when used herein unless otherwise expressly stated herein.)*

1. **Section 3.1.1** is hereby amended by adding a new paragraph (g) to read as follows:

(g) No later than five (5) business days after the Effective Date, the Developer shall cause another \$1,000 to be released to the owners of each Owner Occupied Property subject to such agreements, with such appropriate modifications as may be reasonably required by the Developer to carry out the intent of this Ordinance.

2. **Section 3.1.5** is hereby amended by:

a. Deleting paragraph (a) and replacing it with the following:

(a) No later than October 29, 2008, the Developer will provide notice to all owners of Owner Occupied Property and to all owners of Property within the Residential Phase (excluding properties subject to condemnation proceedings) that the Developer either (i) intends to close on such Properties between November 28, 2008 and December 29, 2008, inclusive (provided that an owner of such a Property may request the closing be delayed until no later than January 15, 2009), or (ii) terminate the Redevelopment Agreement.

Subsections (1) through (4) remain unchanged.

5. **Section 3.5.1** is hereby amended by deleting the first Activity of the Construction Schedule therein and replacing it with the following:

<b>Activity</b>	<b>Maximum Time for Performance (Absent Force Majeure)</b>	<b>Maximum Time for Performance (With Force Majeure)</b>
Submit Notice of Acquisition (all Property described in Section 3.1.5)	December 1, 2007	October 29, 2008

**Except as previously modified hereby, all other terms and conditions of the Agreement shall remain in full force and effect.**

**This Fifth Amendment may be executed in counterparts, each of which shall constitute an original. The parties may sign this Fifth Amendment by facsimile copies, and any such facsimile copy shall be deemed to be an original, and no objections shall be made to the introduction into evidence of any telefaxed copy on grounds related to the telefaxed copy not being an original.**

\* \* \*

**IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the day and year first above written.**

**CITY OF RICHMOND HEIGHTS, MISSOURI**

**By: \_\_\_\_\_**

**James J. Beck, Mayor**

**(SEAL)**

**Attest:**

\_\_\_\_\_  
**Patricia S. Villmer, Deputy City Clerk**

**IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the day and year first above written.**

**MICHELSON-HADLEY  
DEVELOPMENT, LLC**

**HEIGHTS**

**By: Michelson Commercial Realty and  
Development, L.L.C., its manager**

**By: \_\_\_\_\_  
Timothy L. Berry, Executive Vice President**