

ORIGINAL
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ORDINANCE NO.: 2022-034

Authorizing the City Manager to execute a Reinstatement and Seventeenth Amendment to the Purchase Agreement Between the City of Columbia and Bright-Meyers 2001 LLC for the sale of 5.97 +/- acres (Capital City Stadium), Richland County TMS #11204-02-02

BE IT ORDAINED by the Mayor and City Council this 17th day of May, 2022, that the City Manager is authorized to execute the attached, Reinstatement and Seventeenth Amendment to the Purchase Agreement, or on a form approved by the City Attorney, between the City of Columbia and Bright-Meyers 2001 LLC for the sale of 5.97 acres +/- (Capital City Stadium), Richland County TMS #11204-02-02.

Requested by:

Assistant City Manager Gentry

Approved by:

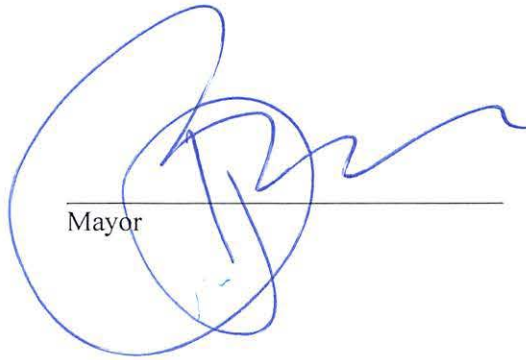

City Manager

Approved as to form:


City Attorney

Introduced: 5/3/2022

Final Reading: 5/17/2022


Mayor

ATTEST:


City Clerk

SEVENTEENTH AMENDMENT TO PURCHASE AGREEMENT

This Seventeenth Amendment to Purchase Agreement (the "Seventeenth Amendment") is made and entered into by and between the City of Columbia, hereinafter referred to as "Seller", and Ballpark, LLC, a South Carolina limited liability company, as assignee of Bright-Meyers Assembly Street, LLC, hereinafter referred to as "Buyer" effective as of the Amendment Effective Date (as defined in Section 6).

WITNESETH:

WHEREAS, Seller and Bright-Meyers 2001 LLC entered into a Purchase Agreement effective August 27, 2012 (as amended, the "Agreement"), which gives Buyer the exclusive right to purchase the property ("Property") described in the Agreement under the terms and conditions of the Agreement; and

WHEREAS, pursuant to that certain Assignment of Purchase Agreement dated October 15, 2018 Bright Meyers 2001 LLC assigned its rights and obligations under the Agreement to its affiliate, Bright-Meyers Assembly Street, LLC, a Tennessee limited liability company; and

WHEREAS, pursuant to that certain Assignment of Contract dated January 29, 2019 Bright-Meyers Assembly Street, LLC assigned its rights and obligations under the Agreement to Ballpark, LLC; and

WHEREAS, the Agreement was most recently further modified, amended and clarified by that certain Fifteenth Amendment to Purchase Agreement effective August 5, 2021, and by that certain Sixteenth Amendment to Purchase Agreement effective November 9, 2021; and

WHEREAS, Seller and Buyer mutually desire to further modify and amend said Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED, that for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars, the receipt and sufficiency of which is hereby acknowledged, the Agreement is amended as follows:

1. Paragraph 1 of the Agreement is amended to provide that the Property to be conveyed to Buyer by the Quitclaim Deed (as hereinafter defined) shall include the land identified on the Survey (as hereinafter defined) as Richland County Tax Map Number R11204-02-42 (the "Sliver").

2. Not later than two (2) business days after the Amendment Effective Date Buyer shall pay additional non-refundable Earnest Money in the amount of \$55,000.00. Buyer and Seller acknowledge and agree that the \$474,000.00 in Earnest Money paid prior to the Amendment Effective Date is nonrefundable and has been paid to the Seller. All Earnest Money shall be applied as a credit against the Purchase Price at the Closing.

3. The Agreement is amended as necessary to provide that at the Closing Seller shall also execute a quitclaim deed (the "Quitclaim Deed") to Buyer for all property shown on that certain ALTA/NSPS Land Title Survey prepared for WREI-The Ballpark by Cox and Dinkins dated August 4, 2020 and identified as Project OP79C-58.dwg (the "Survey"). Seller's agreement to execute and deliver such Quitclaim Deed is conditioned upon the agreement of Dominion Energy of South Carolina, Inc. to execute a deliver a quitclaim deed for the same property.

4. Paragraph 14 of the Agreement is amended to provide that the Closing shall take place not later than June 1, 2022. Provided however, Buyer shall have the right to extend the final date for Closing to the date that is five (5) business days following the date on which the U. S. Army Corps of Engineers, Charleston District issues a permit to Buyer pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) for the Rocky Branch and Rocky Branch Watershed Improvements to be made by Buyer pursuant to Section 24 of the Agreement (the "404 Permit"). Notwithstanding anything stated herein to the contrary, and without regard to the issuance or timing of issuance of the 404 Permit, in no event shall the Closing occur later than June 30, 2022.

5. Subject to the conditions stated in this Section 5, Seller hereby approves the assignment of the Agreement by Buyer to GD Ballpark Development LLC, a Delaware limited liability company (the "Gilbane Entity"). Provided however, Seller's approval of this assignment shall not be effective until (a) all documents and funds required for Closing have been deposited into escrow for Closing, and (b) Buyer has secured all approvals from Dominion Energy of South Carolina, Inc. and from Thomas A. Large, Lawrence Large and Charles Large, to assign to the Gilbane Entity Buyer's contract rights to purchase the adjacent lands owned by such parties.

6. The Agreement is hereby reinstated and shall be in full force and effect, as hereby amended, from and after the Amendment Effective Date.

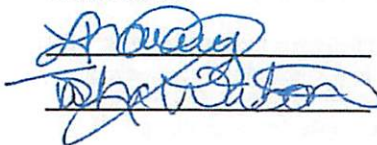
7. The Agreement is amended as necessary to provide that Seller shall reserve utility easements over the Property as follows: (a) a fifteen (15') foot wide exclusive water easement to support the fire hydrant located near the northern boundary of the Sliver, (b) a fifteen (15') foot wide exclusive sewer easement running over the existing sanitary sewer line which generally runs along the right-of-way of Dreyfuss Road before turning and entering the Property as shown on the Survey, and (c) easements for ingress and egress for the purpose of operating, reconstructing, maintaining and repair of all utilities located on the Property.

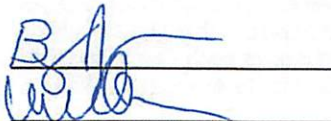
8. The "Amendment Effective Date" is the date on which this Amendment is signed by both parties hereto.

Except as modified and amended hereby, all the terms, covenants and conditions of said Purchase Agreement and subsequent Amendments shall continue and remain in full force and effect insofar as they do not conflict with the terms of this Seventeenth Amendment. In the event that the language of the Agreement or a prior Amendment is contrary to the language of this Amendment, the language of this Amendment shall control regarding that provision.

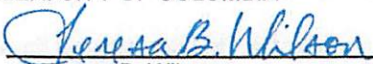
IN WITNESS WHEREOF, the parties have caused this Seventeenth Amendment to Purchase Agreement to be executed and effective as of the date of the last signature herein below.

WITNESSES:





SELLER: CITY OF COLUMBIA

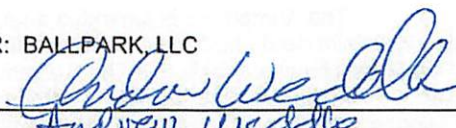
BY: 

Teresa B. Wilson
ITS: City Manager
Date: 5/23/2022, 2022

APPROVED AS TO FORM

Legal Department City of Columbia, SC
5.20.2022

BUYER: BALLPARK, LLC

BY: 

Name: Andrew Weddle
ITS: Manager
Date: May 24, 2022