

ORDINANCE NO.: 2019-097

*Consenting to the Inclusion of Property in a Multi-County Industrial/Business Park
(B-6 Benet Horger LLC, portions of Richland County TMS #R09113-16-03
and TMS R11501-02-01)*

WHEREAS, the City of Columbia, South Carolina ("City"), is a body, politic and corporate located in Richland County, South Carolina ("County"); and,

WHEREAS, through Columbia City Council ("Council"), the City is entitled to exercise all the powers and privileges provided to municipal corporations in the State of South Carolina; and,

WHEREAS, the County and Fairfield County, South Carolina ("Fairfield"), entered into an Agreement for Designation of the I-77 Corridor Regional Industrial Park dated as of April 15, 2003 (the "Original Agreement"), which Original Agreement was amended and restated pursuant to the Amended and Restated Master Agreement dated as of September 1, 2018 (as so amended and restated, the "Park Agreement"); and,

WHEREAS, pursuant to Section 1.02 of the Park Agreement, the boundaries of the park created therein (the "Park") may be enlarged pursuant to ordinance of the County Council of the County and delivery of notice of such enlargement to Fairfield County; and,

WHEREAS, the project to be undertaken by B-6 Benet Horger LLC, a South Carolina Limited Liability Company (the "Developer"), is a portion of a mixed-use commercial real estate development, including fair market rate housing, but which will not include student housing or private dormitories, on parcels located in the City, as more particularly described on Exhibit A (the "Property," together with the development, "Project"), consisting of total taxable investments by the Developer in real and personal property of not less than \$45,000,000; and,

WHEREAS, the County has agreed to offer a public infrastructure credit to reduce the property taxes due on the Project (as more particularly defined herein, "Credit") pursuant to the terms of Section 4-1-175 of the Code of Laws of South Carolina 1976, as amended ("Credit Act"), and a public infrastructure credit agreement between the County and the Developer for the Property ("Credit Agreement") to provide Credits against certain of the Developer's payments in lieu of taxes with respect to the Project for the purpose of assisting in paying certain costs of designing, acquiring, constructing, improving or expanding public infrastructure (collectively, "Public Infrastructure"); and,

WHEREAS, to grant the Developer the full value of the Credit, the County desires to locate the Project in the Park the County has jointly developed with Fairfield, pursuant to Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the of the Code of Laws of South Carolina, 1976, as amended ("Park Act" and, together with the Credit Act, "Act"); and,

WHEREAS, pursuant to the Act and the Park Agreement, following application of the Credit, the payments in lieu of taxes generated from the Project will be distributed as set forth in the Park Agreement; and,

WHEREAS, pursuant to the Act, because the Project is located within the City's geographical borders, the City must consent to the inclusion of the Project within the boundaries of the Park; and,

WHEREAS, the Project is anticipated to meet the criteria set forth in Resolution No.: R-2019-059 and any amendments thereto, and it is appropriate to consent to including the Project in the Park; NOW, THEREFORE,

BE IT ORDAINED by the Mayor and City Council this 17th day of December, 2019 that the City hereby consents to the inclusion of the Property in the Park, which consent is conditioned upon the following:

1. The County's adoption, by resolution or ordinance, authorizing the inclusion of the Property in the Park and delivery of written notice to Fairfield County, pursuant to Section 1.02 of the Park Agreement; provided, the Property shall not be removed from the Park for so long as the Developer is receiving Credits as a result of inclusion in the Park.

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2. The County's approval, execution and delivery of the Credit Agreement related to the Property.

3. The Credit Agreement will provide that (a) the Developer will make payments in lieu of taxes related to the Property ("PILOT") during the term of the Credit Agreement, which PILOT shall be based on property tax assessment of the Property of six percent; (b) the annual PILOT payment payable from the Developer to the County will be subject to reduction by a 50% infrastructure credit (herein defined as the "Credit") to reimburse the Developer's Public Infrastructure costs; (c) the term of the Credit shall not exceed ten years (unless consented to in writing by the City), as shall be set forth in the Credit Agreement; (d) in each year during the term of the Credit, the City will be entitled to receive the portion of the PILOT payment (net of the Credit, as applicable) as provided in the Park Agreement; and (e) the Property will be deemed removed from the Park upon the expiration or earlier termination of the Credit Agreement.

4. Notwithstanding the foregoing, if the Project proceeds in a phased approach, (a) the first phase must meet the criteria established in Resolution No.: R-2019-059 to be eligible for the Credit, (b) the time limit for the Project Credit period as allowed in this Ordinance shall be as set forth in Section 3 hereof, and the timeline for additional phases shall be for the period of time or Credit amount that remains available on the original period and shall not have a new beginning date.

5. The City Manager is authorized to execute any documents and take any further action as may be reasonably necessary to further the intent of this Ordinance.

6. Approval of this Ordinance does not constitute a development approval, as all regulatory permitting and approval requirements remain in effect, the requirement of such is not altered in any way by the approval of this Ordinance. If not already so completed, the Project must proceed with credit application no later than December 31, 2022 in order to be eligible to receive the Credit and must continue to progress forward at a reasonable pace for a project of this magnitude or else the approved tax credit will be repealed by the City.

7. Any prior ordinance, resolution or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Requested by:

Assistant City Manager Gentry



Mayor

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 11/25/2019; 12/3/2019

Final Reading: 12/17/2019

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EXHIBIT A
PROPERTY DESCRIPTION

ALL that certain piece, parcel or lot of land, including air rights, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, and within the following two parcels, to-wit:

Parcel C-6 as shown on a Subdivision Plat prepared for Bull Street Development, LLC, by Jeffrey W. Poole, PLS NO. 18267, Davis & Floyd and dated September 4, 2018 and recorded September 27, 2018 in the Office of the Register of Deeds for Richland County in Book 2338, at page 2806. Said property containing 1.62 Acres, and being described as follows: Commencing at a #5 rebar found in the southern quadrant of the Boyce Street and Freed Street intersection; said #5 rebar found is the Point of Beginning; thence running in a southeasterly direction S19007'17"E along the Boyce Street westerly right-of-way for a distance of 302.96 feet to a #5 rebar set on said right-of-way; thence turning and running in a southwesterly direction S700 52'43"W along Parcel C-7 belonging to Tellus Delaware, LLC for a distance of 262.78 feet to a P.K. Nail set; thence turning and running in a northwesterly direction N 19007 '17"W along Tract 2 of property belonging to South Carolina Department of Mental Health for a distance of 43.35 feet to a P.K. Nail set; thence turning and running in a northeasterly direction N70056'58"E along Tract 2 of property belonging to South Carolina Department of Mental Health for a distance of 34.79 feet to a P.K. Nail set; thence turning and running in a northwesterly direction N 19003 '02" W through the Williams Building and along Tract 2 of property belonging to South Carolina Department of Mental Health for a distance of 259.92 feet to a P.K. Nail set; thence turning and running in a northeasterly direction N70056'45"E along Parcel A-4 belonging to Tellus Delaware, LLC for a distance of 227 .67 feet to a #5 rebar found on the Boyce Street right-of-way in the southern quadrant of the Boyce Street and Freed Street intersection; said point being the Point of Beginning.

TMS No.: R09113-16-03 (portion of)

Parcel C-7 as shown on a Subdivision Plat prepared for Bull Street Development, LLC, by Jeffrey W. Poole, PLS NO. 18267, Davis & Floyd and dated November 15, 2017 and recorded December 20, 2017 in the Office of the Register of Deeds for Richland County in Book 2268, at page 2778. Said property containing 3.05 Acres, and being described as follows: Commencing at a #5 rebar found at the southwesterly end of the right-of-way of Saunders Street at its corner with property belonging to South Carolina Department of Mental Health and proceeding N19o03'15"W 72.00 feet to the Point of Beginning; thence running in a southwesterly direction S70o52'43"W along property belonging to South Carolina Department of Mental Health for a distance of 268.84 feet to a #5 rebar set; thence turning and running northwesterly direction N19o07'17"W along property now or formerly belonging to South Carolina Department of Mental Health for a distance of 465.62 feet to a #5 rebar set; thence turning and running in a northeasterly direction N70o52'43"E along Parcel C-6 belonging to BullStreet Retail, LLC for a distance of 262.78 feet to a #5 rebar set; thence turning and running in a southeasterly direction S19o07'17"E along the westerly right-of-way of Boyce Street for a distance of 15.85 feet to a #5 rebar found; thence continuing along the right-of-way of Boyce Street in a southeasterly direction S49o03'15"E for a distance of 49.17 feet to a #5 rebar found; thence continuing along the right-of-way of Boyce Street in a southeasterly direction S19o03'15"E for a distance of 407.20 feet to a #5 rebar found on the Boyce Street right-of-way in the western quadrant of the Boyce Street and Saunders Street intersection; said point being the Point of Beginning.

Further described as Lots 2, 4 (including references to divisions A-G), and Bridge as shown on a Summary Plat of seven (7) pages, entitled Bull Street Subdivision prepared for BullStreet Retail, LLC, by Site Design, Inc. and dated November 1, 2019.

TMS No.: R11501-02-01 (portion of)