

ORDINANCE NO.: 2020-043

ORIGINAL
STAMPED IN RED

*Authorizing the City Manager to execute a Thirteenth Amendment to 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 19th day of May, 2020, that the City Manager is authorized to execute the attached Thirteenth Amendment to 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



Mayor

Approved by:




City Manager

Approved as to form:

T. A. Knox

City Attorney

ATTEST:



City Clerk

Introduced: 5/12/2020

Final Reading: 5/19/2020

THIRTEENTH AMENDMENT TO PURCHASE AGREEMENT

This Thirteenth Amendment to Purchase Agreement (the "Thirteenth 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 hereinafter defined).

WITNESSETH:

WHEREAS, Seller and Bright-Meyers 2001 LLC entered into a Purchase Agreement effective August 27, 2012 (as amended by twelve prior instruments, 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 Twelfth Amendment to Purchase Agreement effective June 26, 2019 (the "Twelfth Amendment"); 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 14 of the Agreement is amended to provide that the Closing shall take place no later than September 1, 2020; provided however, that Buyer shall give Seller written notice of its intent to close at least eight (8) weeks prior to the desired Closing date.

2. Exhibit A attached to the Twelfth Amendment is hereby deleted in its entirety and is replaced with Exhibit A attached to this Thirteenth Amendment.

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

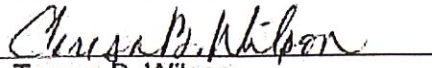
Except as modified and amended hereby, all the terms, covenants and conditions of said Purchase Agreement and subsequent Amendments shall continue and remain in full force and effect insofar as they do not conflict with the terms of this Thirteenth Amendment. In the event that the language of the Agreement 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 Thirteenth Amendment to Purchase Agreement to be executed and effective as of the date of the last signature herein below.

WITNESSES:




SELLER: CITY OF COLUMBIA

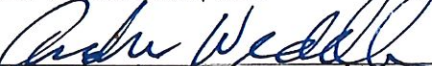
BY: 
Teresa B. Wilson

ITS: City Manager

Date: 5/27/2020


Julie A. Weddle

BUYER: BALLPARK, LLC

BY: 
Name: Andrew Weddle
ITS: Managing Member
Date: June 16, 2020

APPROVED AS TO FORM

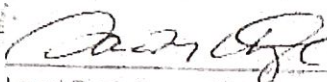

Legal Department City of Columbia, SC

Exhibit "A"

Limited Warranty Deed with Covenants

SEE ATTACHED

This deed was prepared in the law offices of
BURR FORMAN McNAIR
 Post Office Box 11390
 Columbia, SC 29211
 Attn: Judith L. McNair

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDENTURE LIMITED WARRANTY DEED
(With Covenants)

THIS INDENTURE LIMITED WARRANTY DEED ("Deed") made effective as of the _____ day of _____, 2019, by and between CITY OF COLUMBIA, SOUTH CAROLINA, ("Grantor"), and BALLPARK, LLC, a South Carolina limited liability company ("Grantee"), having an address at _____; in this Deed, the singular shall include the plural, and plural shall include the singular, and the gender shall include all genders.

FOR AND IN CONSIDERATION of the covenants and conditions hereinafter contained and the sum of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, paid to Grantor at and before the sealing of these presents by the Grantee, in the State aforesaid, the receipt and adequacy whereof is hereby acknowledged, SUBJECT TO easements, restrictions, reservations, agreements, covenants, and conditions set forth below, Grantor has granted, bargained, sold and released and by these presents does grant, bargain, sell and release, unto the said Grantee, the real property described on Exhibit A attached hereto and incorporated herein (hereinafter referred to as the "Property").

The Property is conveyed subject to all matters of record in the Register of Deeds Office for Richland County, South Carolina affecting title, ad valorem property taxes, zoning laws and ordinances, and to all matters that would be revealed by an accurate survey or inspection of the Property.

The Property is conveyed subject to all easements, restrictions, reservations, agreements, covenants and conditions set forth on Exhibit B attached hereto and incorporated herein.

Grantee agrees to observe and perform its obligations as set forth herein.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the Property, unto the Grantee, its successors and assigns forever; subject, however, to the easements, restrictions, reservations, agreements, covenants and conditions that constitute covenants running with the land, all as set forth herein above.

Subject to the matters set forth above, Grantor does hereby bind itself to warrant and forever defend all and singular the Property unto Grantee, its successors assigns, from and against Grantor and its successors and assigns, but no others.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this Deed to be executed in their respective names by their duly authorized officers and under seal to be hereto affixed, this 2nd day of June, 2019-20

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

CITY OF COLUMBIA, SOUTH
CAROLINA

[Signature]
Signature of 1st Witness

By: Teresa B. Wilson

Teresa B. Wilson
City Manager

Erika D Moore Hammond
Signature of 2nd Witness/Notary Public

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that Teresa B. Wilson, as City Manager of City of Columbia, South Carolina, by and on behalf of City of Columbia, South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 2nd day of June, 2019-20

Erika D Moore Hammond
Notary Public for South Carolina

Print Name: Erika D Moore Hammond

My Commission Expires: 4.16.2022

(NOTARIAL SEAL)



BAILEY PARK, LLC, a South Carolina limited liability company

By: _____

Signature of 2nd Witness/Notary Public

Title: _____

ACKNOWLEDGEMENT

Witness my hand and official seal this the _____ day of _____, 2019.

Print Name: _____

(NOTARIAL SEAL)

EXHIBIT A

Derivation:

TMS No.: 11204-02-02

EXHIBIT B

- A. The Property is conveyed subject to the following easements, restrictions, reservations, agreements, covenants and conditions (collectively the "Covenants"):
1. The Property shall be held, developed and operated subject to and as provided in the Commercial Development Guidelines attached hereto and incorporated herein as Exhibit B-1.
 2. The Property shall be held, developed and operated subject to and as provided in the City of Columbia Best Management Practice Design Manual attached hereto and incorporated herein as Exhibit B-2.
 3. The Property shall be held, developed and operated subject to and as provided in the Rocky Branch and Rocky Branch Watershed Improvements attached hereto and incorporated herein as Exhibit B-3.
 4. Grantee shall cause the Property to be cleared of all structures and all debris removed, in accordance with all applicable laws, at the Grantee's expense, within ninety (90) days of the date of this Indenture Deed.
 5. For and during the period commencing on the date of recording of this Indenture Limited Warranty Deed and ending on that date five (5) years thereafter (the "Restricted Period"), the Property shall at all times, be owned by the individual or entity that owns the property described on Exhibit C attached hereto and incorporated herein (the "Adjacent Property", and, together with the Property, the "Combined Property"). During the Restricted Period the Combined Property shall not be subdivided, and shall not be sold, conveyed, mortgaged, pledged, or assigned except as one entire parcel.
 6. The Grantee shall commence vertical construction of improvements on the Property no later than July 1, 2022. Vertical construction shall commence with the pouring of footings for such improvements.
 7. Not later than December 31, 2023, the improvements developed and occupied or ready for occupancy on the Property shall contain a minimum of 20,000 SF of street front commercial and retail space.
- B. If the Grantee or its successors and assigns, or any developer, operator, tenant or person/entity in possession of all or any part of the Property (collectively the "Owner/Operator") fails to comply with all of the Covenants with regard to the portion of the Property owned, leased or otherwise controlled by the Owner/Operator, the Grantor shall provide written notice to the Owner/Operator of such non-compliance and the Owner/Operator shall have thirty (30) days from the date of such notice to take such actions that may be required to cause the Property to comply with the covenants (or if such

corrective actions would reasonably be expected to take longer than thirty (30) days, the Owner/Operator shall promptly commence such efforts and then diligently pursue such corrective actions to completion). In the event the Owner/Operator fails to undertake such corrective actions in the manner stated above, the Grantor, its successors and assigns, shall, at its option, have the right to

1. Compel compliance with the Covenants by pursuing any action available to the Grantor at law or in equity; and
 2. Assess and collect damages from the Owner/Operator in the amount of \$500 per day during the time such violation of the Covenants or failure to comply with the Request continues.
- C. The Covenants set forth herein and the rights of Grantor to enforce such Covenants are separate and distinct from the laws, regulations, ordinances and requirements of the City of Columbia. Approval, disapproval, waiver or other action pursuant to the Deed by Grantor shall be separate and distinct from, and shall have no bearing on, the laws, regulations, ordinances and requirements of the City of Columbia.
- D. The Covenants may be amended from time to time by recorded instrument executed by Grantor and Grantee.
- E. If any legal action or proceeding is brought by Grantor to enforce any of the Covenants, all reasonable attorneys' fees and costs related thereto incurred by Grantor shall be paid by the Grantee if the Grantor prevails in such action or proceeding.
- F. The provisions in this Deed are intended to be independent. In the event any provisions of this Deed should be declared by a court of competent jurisdiction to be invalid, illegal or unenforceable for any reason whatsoever, such illegality, unenforceability or invalidity shall not affect other provisions of this Deed.
- G. Failure of the Grantor to insist upon compliance with any provision hereof shall not constitute a waiver of the rights of the Grantor to subsequently insist upon compliance with this Deed nor in any way affect the validity of all or any part of this Deed. No waiver of any breach of this Deed shall constitute a waiver of any other or subsequent breach.

Exhibit B-1
Design and Development Guidelines
April ##, 2019

The Property shall be designed and developed in conformance with the Innovista Design Guidelines as amended June 5, 2018 and attached as reference with the following additions and clarifications.

1. **Review.** Review of site, building and overall design of the project shall occur by a committee of city staff consisting of the Director of Planning and Development Services, Planning Administrator, Land Development Administrator, Urban Design Planner, and the City Storm Water Manager. Review and approval shall occur prior to submitting the project to the City of Columbia for development approval.
2. **Architectural Style.** The context, form, layout and design features of the development shall consider urban forms as well as mill structures, and mill villages. Consideration of context shall be considered in relationship to architectural detailing, and materials. Standard suburban and/or marketing/branding Architecture and site design is not acceptable. The entire development shall be designed as unified whole.
3. **Site Design and Relationship to Surrounding Community**
 - a. The Buyer will work with USC and Comet to facilitate the location of a bus stop at the development.
 - b. The entire site shall be designed for pedestrian connectivity.
 - c. A minimum of one pedestrian connection to the site from each public right of way shall be provided for each vehicular access point.
 - d. Pedestrian connections that are adjacent to a vehicular access points or parking areas shall be separated by an average of six (6) feet of green space to be planted with trees.
 - e. Internal pedestrian connections shall interconnect with one another, and shall provide continental painted crosswalks at each point of crossing of vehicular areas.
 - f. Pedestrian areas to rear support functions and other non semi-public areas are not required.
 - g. Pedestrian connections to Bluff Road shall be provided.
 - h. Bicycle facilities shall be provided at a rate of one connection for each vehicular access point provided. Facilities shall be limited to interior circulation routes and not the general parking areas for vehicles.
 - i. Bike facilities shall be provided along Assembly Street per section 5. below.
 - j. Bike facilities and pavement markings shall be analyzed for the intersection of Assembly and Main Entry and shall be based upon final circulation layout and overall design.
 - k. Bike parking layout and racks shall comply with the Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines 2nd Edition or later.

- l. All bike facilities on public and private streets and on access roads adjacent to or within the development shall comply with the National Association of City Transportation Officials Urban Street Design Guide and Urban Bikeway Design Guidelines

4. Lighting.

- a. All lighting shall be full cut off style fixtures to reduce light pollution.
- b. No pole mounted light within the main tenant parking field shall be higher than 35 feet from its mount. The developer shall provide lower poles within smaller parking fields and access drives.
- c. Pedestrian style lighting shall be provided along the entry facades of each structure as well as multi-use paths and sidewalk areas that are not illuminated by parking lot lighting. Pedestrian lighting within the site shall coordinate with the City of Columbia Standard for the downtown area and be full cut off when appropriate.

5. Improvements to the Public Right of way

- a. One standard pedestrian/ road street light, shall be provided parallel to Assembly Street and Dreyfus rights of way per 80 feet of right of way, or as determined by the City Traffic Engineering Department. Lighting style, color, installation and all other specifications shall comply with all City Requirements and coordinate with downtown acorn fixture design or other approved design.
- b. Curb and Gutter shall be provided along Assembly Street and Dreyfus Road and turn the corner at the Ferguson Street intersection.
- c. The Buyer will provide signalization of Ferguson Street and Assembly Street contingent on DOT approval/permitting.
- d. All sidewalks shall comply with all ADA regulations. Crosswalks shall be provided at all intersections meeting requirements by the City Engineer.
- e. A pedestrian sidewalk shall be provided along the rights of way of Assembly Street and Dreyfus Road adjacent to the parcel. Walkways shall have a minimum width of 8 feet
- f. Shade trees shall be provided as single row of trees within a 5 foot-7 foot (7ft max. 5-foot min.) tree lawn. Shade trees shall be provided as a single row of trees between the separated bike facility and the pedestrian sidewalk. Trees alternating pattern. Flexibility as to location do to entries and site conditions may require wider or tighter spacing.
- g. Sidewalk pavement shall consist of a combination of scored concrete paving, and concrete pavers.
- h. Sidewalk areas located near development entrances and intersections shall be paved with concrete pavers and have detailing substantially similar to detailing located at the southwest corner of Assembly Street and Whaley Street.
- i. 8. Tree species shall be of a type that will at maturity canopy approximately 75% of the sidewalk area as shade during summer months.

- j. 9. A separated dedicated bike lane shall be provided parallel to Assembly Street and Dreyfus and shall be designed to allow future north south connections. The separated dedicated bike lane shall have clearly identifiable crossings at intersections or transitions to on road lanes or sharrow. Alternatively, a series of bike lanes, Cycle Tracks, or other bike amenities may be considered by the review committee and the developer at the time of construction or as indicated in the City of Columbia Pedestrian and Bicycle Master Plan draft or adopted document. All bike facilities within the right of way shall comply with NACTO Urban Bikeway Design Guide.

6. Environmental

- a. Stream buffers. The development shall exceed the BMP manual to utilize state of the art techniques to insure water quality is improved, while also complying with the City's Low Impact Development BMP Manual and Stream Buffer language when proposing site design with respect to quality and quantity.
- b. Relocations of streams shall create a naturalized effect through the use of topography, plant life, bank stabilization, and a path that meanders, etc.

EXHIBIT B-2

**City of Columbia Best Management
Practice Design Manual**

EXHIBIT B-3

Rocky Branch and Rocky Branch Watershed Improvements

The Buyer, its successors and assigns, shall make necessary improvements to the Bluff Road railroad embankment, remove the railroad trestle downstream of Olympia Avenue and enlarge the Olympia Avenue culvert crossing to enhance water quality and improve flooding conditions in the area to a degree that is acceptable to the Buyer, Seller, and County and as recommended in the Urban Study of the Rocky Branch Watershed by AMEC Environmental & Infrastructure, Inc. dated June 1, 2012, a copy of which is attached as Exhibit B-4 hereto and incorporated herein by specific reference thereto and as set forth in the motion approved by Columbia City Council on June 5, 2012, a copy of which is attached hereto as Exhibit ## and incorporated herein by specific reference thereto.

Buyer, Seller, and the County shall work together to create the optimum flooding, drainage, and water quality situation from Assembly street to the Congaree River. In addition to the three improvements specifically set forth in the previous paragraph, the Buyer shall facilitate and pay for all surveying, plans, permitting, and design of the improvements. In addition, the Buyer shall use its best efforts to perform any mitigation required by DHEC or the Army Corp of Engineers, for the Buyer's relocation of the onsite stream, within Rocky Branch,

EXHIBIT B-4

**Urban Study
Rocky Branch Watershed**