

ORDINANCE NO. 253.2015

AN ORDINANCE OF KERSHAW COUNTY COUNCIL, SOUTH CAROLINA AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN KERSHAW COUNTY, SOUTH CAROLINA AND THE CITY OF CAMDEN, SOUTH CAROLINA

FILED FOR RECORD
2015 SEP 28 PM 2:09
JOYCE HENNINGFIELD
CLERK OF COURT
KERSHAW COUNTY, S.C.

WHEREAS, the City of Camden, South Carolina (the “City”) desires to create and stimulate economic development opportunities in and around the City;

WHEREAS, Kershaw County, South Carolina (“Kershaw County”) acting by and through the County Council of Kershaw County, the governing body of Kershaw County (“County Council”), is empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (“Park Act”) to enter into agreements with other counties within the State of South Carolina for the purpose of creating joint county industrial and business parks in order to promote economic development and thus provide for additional employment opportunities;

WHEREAS, pursuant to the Park Act, Kershaw County and Chesterfield County, South Carolina (“Chesterfield County,” and together with Kershaw County, the “Counties”), have authorized and plan to execute and deliver an “Agreement for the Development of a Joint Industrial and Business Park” (the “Park Agreement”) and thusly authorize the creation of a Joint County Industrial and Business Park (the “Park”), to be located upon the property (the “Property”) described on Exhibit A hereto;

WHEREAS, KershawHealth Medical Center (the “Hospital”) is an acute care hospital and long term nursing facility located on Roberts Street within the corporate limits of the City and the Hospital owns other property within the City (collectively, the “Hospital Property”);

WHEREAS, the Hospital is in the process of formulating and finalizing the sale/lease of its business, including the Hospital Property, and all assets, facilities and operations, to Capella Healthcare (in partnership with MUSC Health), a for-profit healthcare corporation (collectively, “Capella”);

WHEREAS, as an inducement to Capella to purchase the Hospital and maintain its location in the City, the Counties desire to include the Hospital Property in the Park;

WHEREAS, the Park Act provides that if a joint county industrial and business park encompasses all or a portion of a municipality, the partner counties must obtain the consent of the municipality prior to the creation of the joint county industrial and business park;

WHEREAS, the City desires to include Hospital Property within the Park as it recognizes the benefits that the Hospital provides and intends to support the Hospital and promote its success by consenting to the creation of the Park;

WHEREAS, upon the sale of the Hospital to Capella, a determination has been made wherein Kershaw County will operate, maintain and administer all emergency medical services ("*EMS Services*") within Kershaw County;

WHEREAS, the City recognizes that the revenues received by Kershaw County under the Park Agreement are anticipated to fund operation of EMS Services; and

WHEREAS, the City and Kershaw County intend to enter into an Intergovernmental Agreement, a copy of which is attached hereto as Exhibit B (the "*Intergovernmental Agreement*"), regarding the provision of EMS Services in Kershaw County and the distribution of revenues received under the Park Agreement in the event EMS Services are not run and maintained to the City's satisfaction.

NOW, THEREFORE, BE IT ORDAINED by Kershaw County Council, South Carolina as set forth below:

1. The County Council finds that the Hospital Property provides and will continue to benefit the general public welfare of the City by providing medical services, employment and other public benefits not otherwise provided locally and that the Hospital Property will give rise to no pecuniary liability of the City or a charge against its general credit or taxing power.

2. The County agrees to execute any and all documents necessary to evidence this consent.

3. There is hereby approved and directed to be executed and delivered by Kershaw County the Intergovernmental Agreement pertaining to the development of the Park and the use of fee-in-lieu of taxes therefrom for the operation of EMS Services by Kershaw County. Such Intergovernmental Agreement shall be in substantially the form attached to this Ordinance as Exhibit B, or with such changes or revisions thereto as are consistent with this Ordinance.

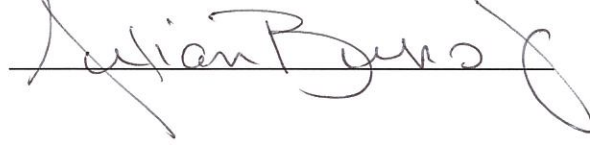
4. The Chairman of the Kershaw County Council, the City Manager and the City Clerk are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate and to carry out the intentions of this Ordinance.

5. The provisions of this Ordinance are severable, and if any one or more of the provisions, sentences, clauses, sections, or parts hereof shall be held or deemed to be or shall in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflict with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever. It is hereby declared that this Ordinance would have been enacted if such inoperative or unenforceable or invalid provisions, sentences, clauses or sections or parts (i) shall be deemed severable from the remaining covenants and agreements and portions thereof provided in this Ordinance, and (ii) shall in no way affect the validity of the other provisions of this Ordinance.

6. This Ordinance shall become effective immediately upon its enactment.


DONE AND ENACTED BY COUNCIL ASSEMBLED, this 24th day of March, 2015.

KERSHAW COUNTY COUNCIL

A handwritten signature in black ink, appearing to read "Julian Burns", is written over a horizontal line.

(SEAL)

ATTEST:

A handwritten signature in blue ink, appearing to read "Merri M. Seigler", is written over a horizontal line.

Merri M. Seigler
Clerk to County Council

First reading: February 24, 2015
Second reading: March 10, 2015
Public Hearing: March 24, 2015
Third Reading: March 24, 2015

EXHIBIT A

Description of the Property

C285-06-00-025
1315 Roberts Street Camden

310-00-00-009
1165 Highway 1 South Lugoff

C285-06-00-070
1209 DuBose Court Camden

360-00-00-110
40 Pinnacle Parkway Elgin

C285-06-00-048
1211 Roberts Street Camden

349-00-00-053
52 Pinnacle Parkway Elgin

C285-06-00-049
1218 Roberts Street Camden

284-00-00-022
124 Battleship Road Camden

C285-06-00-052
1213 Gardner Street-N Camden

212-00-00-028
1213 Kershaw Highway Camden

C285-06-00-050
1215 Gardner Street-N Camden

C285-06-00-060
1213 Lakeshore Drive Camden

C285-06-00-004
1327 Haile Street Camden

C285-06-00-005
1329 Haile Street Camden

C285-09-00-025
1111 Mill Street Camden

C285-10-00-024
31 East DeKalb Street Camden

C285-10-00-027
37 East DeKalb Street Camden

C285-10-00-023
43 East DeKalb Street Camden

C285-10-00-022
51 East DeKalb Street Camden

EXHIBIT B

Form of Intergovernmental Agreement

4813-8676-1250, v. 1

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW) INTERGOVERNMENTAL AGREEMENT
)
CITY OF CAMDEN)

This Intergovernmental Agreement (this "*Agreement*") regarding the development of a multi-county industrial and business park with the municipal limits of the City of Camden is entered into as of this 24 day of March, 2015, by and between the City of Camden, South Carolina (the "*City*"), and Kershaw County, South Carolina ("*Kershaw County*").

WHEREAS, Kershaw County, acting by and through the County Council of Kershaw County, the governing body of Kershaw County, ("*County Council*"), is empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended ("*Park Act*") to enter into agreements with other counties within the State of South Carolina (the "*State*") for the purpose of creating joint county industrial and business parks in order to promote economic development and thus provide for additional employment opportunities;

WHEREAS, pursuant to the Park Act, Kershaw County and Chesterfield County, South Carolina ("*Chesterfield County*," and together with Kershaw County, the "*Counties*"), have authorized and plan to execute and deliver an "Agreement for the Development of a Joint Industrial and Business Park" of even date herewith (the "*Park Agreement*") and thusly authorize the creation of a Joint County Industrial and Business Park (the "*Park*"), to be located upon the property (the "*Property*") described on Exhibit A hereto;

WHEREAS, KershawHealth Medical Center (the "*Hospital*") is an acute care hospital and long term nursing facility located on Roberts Street within the corporate limits of the City and the Hospital owns other property within the City (collectively, the "*Hospital Property*");

WHEREAS, the Hospital is in the process of formulating and finalizing the sale of its business, including the Hospital Property, and all assets, facilities and operations, to Capella Healthcare (in partnership with MUSC Health), a for-profit healthcare corporation (collectively, "*Capella*");

WHEREAS, as an inducement to Capella to purchase the Hospital and maintain its location in the City, the Counties desire to include the Hospital Property in the Park;

WHEREAS, businesses or industries located in the Park (like Capella) will pay a fee in lieu of ad valorem taxes as provided for by laws of the State and as further set forth in the Park Agreement.

WHEREAS, the Park Act provides that if a joint county industrial and business park encompasses all or a portion of a municipality, the partner counties must obtain the consent of the municipality prior to the creation of the joint county industrial and business park;

WHEREAS, pursuant to an Ordinance dated March 24, 2015, the provisions of which also approved this Agreement, the City, subject to the execution and delivery of this Agreement, has consented to the creation of the Park;

WHEREAS, the Park Act provides that the Park Agreement must include provisions that specify the manner in which fees-in-lieu of taxes paid on behalf of properties located in the Park are allocated to each of the Counties, and further specify the manner in which the fees-in-lieu of taxes are to be distributed to each of the taxing entities in each of the Counties;

WHEREAS, Section 6 of the Park Agreement provides that fee-in-lieu of tax revenues ("*Revenues*") for properties located in the Kershaw County-portion of the Park shall be distributed as follows: 99% to Kershaw County, and 1% to Chesterfield County;

WHEREAS, Section 7 of the Park Agreement provides that the Revenues received and retained by Kershaw County shall be distributed in accordance with the provisions of Ordinance No. ~~252.2015~~ of the County Council dated 3-24, 2015 (the "*Kershaw Ordinance*"), provided that "(i) all taxing districts [like the City] which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the [R]evenues generated from such portion, and (ii) with respect to amounts receivable in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity;"

WHEREAS, the Kershaw Ordinance provides that Revenues received and retained by Kershaw County shall be distributed as follows: (1), unless Kershaw County elects to pay the same from only those revenues which Kershaw County would otherwise be entitled to receive as provided under (4) below, to pay annual debt service on any special source revenue bonds issued by Kershaw County payable in whole or in part by or from revenues generated from any properties in the Park; (2) at the option of Kershaw County, to reimburse Kershaw County for any expenses incurred by it in the development, operation, maintenance and promotion of the Park or the businesses located therein; (3) to each taxing district which overlaps the applicable properties within Kershaw County's portion of the Park, 1% of the remaining revenues; and (4) all remaining revenues (the "*Remaining Park Revenues*") from the Park shall be distributed to fund emergency medical services ("*EMS Services*") in Kershaw County;

WHEREAS, the City recognizes that the Revenues received by Kershaw County are anticipated to fund operation of EMS Services;

WHEREAS, in the event Kershaw County fails to adequately maintain and efficiently run EMS Services within the City as further described within this Agreement, 24% of the Remaining Park Revenues shall be immediately distributed to the City on an annual basis; and

WHEREAS, pursuant to Section 7(a) of the Park Agreement and pursuant to the Kershaw Ordinance, Kershaw County has agreed to amend the distribution of Revenues to the City as more particularly set forth in this Agreement.

NOW, THEREFORE, on the basis of the premises and mutual covenants contained in this Agreement, the sufficiency of which consideration is acknowledged, Kershaw County and the City agree:

Section 1. Consent as to the Creation of the Park. At execution and delivery of this Agreement by the City and Kershaw County, the City affirms its consent to the inclusion of the Property in the Park.

Section 2. Distribution of Revenues. Revenues shall be distributed as described in the findings of fact hereinabove, the Kershaw Ordinance and the Park Agreement. However, in the event that Kershaw County, in the sole discretion of the City, fails to: (a) maintain and operate EMS Services in an economic and efficient manner; and (b) operate, maintain and properly staff a facility for EMS Services within the municipal limits of the City at a location agreed upon in writing by the City and Kershaw County twenty-four percent (24%) of the Remaining Park Revenues (limited however to only those Properties that are located in the corporate boundaries of the City) shall be distributed to the City in accordance with Kershaw County's normal procedure for the distribution of tax revenues of taxing districts for which Kershaw County is responsible for collecting tax revenues.

Section 3. Removal or Addition of Property in the Park. Unless requested or consented to by ordinance of the City, Kershaw County shall not: (a) take any affirmative action or consent to removal of any Property from the Park which is located in the City, (b) take any affirmative action or consent to the addition of any Property into the Park which is located in the City, (c) terminate the Park Agreement; or (d) enact an ordinance or take any other action to provide for a distribution of the City's portion of the Revenues contrary to the methodology set forth in Section 2 of this Agreement.

Section 4. Special Source Revenue Bonds or Credits. Kershaw County shall not issue any special source revenue bonds or special source revenue credits secured by the Revenues generated in the Park without the written consent and authorization of the City.

Section 5. Binding Effect of Agreement. This Agreement serves as a written instrument, which is binding upon the City and Kershaw County.

Section 6. Severability. In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

Section 7. Complete Agreement; Amendment. This Agreement constitutes the entire agreement between the City and Kershaw County with respect to the Agreement's subject matter and supersedes all agreements, representations, warranties, statements, promises and understandings, whether oral or written, with respect to the subject matter hereof, and neither party shall be bound by any oral or written agreements, statements, promises, or understandings not specifically set forth in this Agreement. This Agreement may only be amended upon the enactment of ordinances by both the City and Kershaw County, and a written amendment hereto executed by authorized officers of both the City and Kershaw County.

Section 8. Counterpart Execution. This Agreement may be executed in multiple counterparts.

Section 9. Termination. This Agreement may not be terminated by either party hereto for a period of 20 years commencing with the later of the effective date of this Agreement or the effective date of the Park Agreement.

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

KERSHAW COUNTY, SOUTH CAROLINA

CITY OF CAMDEN, SOUTH CAROLINA

By: *Vic Compton*
Its: County Administrator

By: *R. Dawson*
Its: City Manager

Attest:
By: *Cherri Onyeigbo*
Its: Clerk to County Council

Attest:
By: *Brenda Taylor*
Its: City Clerk

EXHIBIT A

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