JOHN J. TECKLENBURG
MAYOR

City of Charleston
South Carolina
Clerk of Council Department

VANESSA TURNER MAYBANK
CLERK OF COUNCIL

## NOTICE OF MEETING

A meeting of the Committee on Real Estate will be held beginning at 3:00 p.m. Monday, July 27, 2020, **Conference Call: 1-929-205-6099; Access Code: 835 678 884.** The agenda will be as follows:

## AGENDA

Invocation – Councilmember Appel

Approval of Minutes:

July 13, 2020

a. Authorization for the Mayor to execute a Memorandum of Understanding and Agreement between the City of Charleston and Epic Center, LLC that to the extent possible, TIF bond proceeds and TIF revenue will be spent to fund the cost of public infrastructure improvements on property in an amount not less than an amount equivalent to the amount generated by property identified in the MOU. (Citadel Mall)

b. Discussion about use and zoning re: LDC property at 2 Race Street *(Requested by Councilwoman Carol Jackson)*

c. Request approval to accept the Rotary Club of Charleston's Gift of Statuary to complete the Rotary Fountain located at the corner of King and Calhoun Streets (a portion of 460-16-04-005)

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.

a.)

# REAL ESTATE COMMITTEE
# GENERAL FORM

**TO:** John J. Tecklenburg, Mayor **DATE:** July 22, 2020

**FROM:** Planning/Finance/ Legal **DEPT:** Planning

**ADDRESS:** Citadel Mall

**TMS:** See exhibit attached to MOU

**ACTION REQUEST:** AUTHORIZATION FOR THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN THE CITY OF CHARLESTON AND EPIC CENTER, LLC THAT TO EXTENT POSSIBLE TIF BOND PROCEEDS AND TIF REVENUE WILL BE SPENT TO FUND THE COST OF PUBLIC INFRASTRUCTURE IMPROVEMENTS ON PROPERTY IN AN AMOUNT NOT LESS THAN AN AMOUNT EQUIVALENT TO AMOUNT GENERATED BY PROPERTY IDENTIFIED IN MOU.

***COORDINATION*: The request has been coordinated with:**

*All supporting documentation must be included*

| | Signature | Attachments |
|---|---|---|
| Department Head | | ☐ |
| Legal Department | | ☒ |
| Chief Financial Officer | | ☐ |
| Director Real Estate Management | | ☐ |
| | | ☐ |

**FUNDING**: Was funding needed? **Yes** ☐ **No** ☒

If yes, was funding previously approved? **Yes** ☐ **No** ☐

If approved, provide the following: **Dept/Div.** _____ **Acct:** _____

Balance in Account _____ Amount needed for this item _____

***Commercial Property and Community & Housing Development have an additional form.**

# COMMITTEE / COUNCIL AGENDA

**TO:** John J. Tecklenburg, Mayor

**FROM:** PLANNING/FINANCE/LEGAL **DEPT.** PLANNING

**SUBJECT:** MEMORANDUM OF UNDERSTANDING AND AGREEMENT WITH EPIC CENTER, LLC

**REQUEST:**

Authorization for the Mayor to execute a Memorandum of Understanding and Agreement between the City of Charleston and Epic Center, LLC that to extent possible TIF bond proceeds and TIF revenue will be spent to fund the cost of public infrastructure improvements on the Property identified in MOU Exhibit in an amount not less than amount generated by the Property.

**COMMITTEE OF COUNCIL:** _____ **DATE:** JULY 28, 2020

***COORDINATION:*** This request has been coordinated with: *(attach all recommendations/reviews)*

| | Yes | N/A | Signature of Individual Contacted | Attachment |
|---|---|---|---|---|
| Corporate Counsel | x | | | x |
| Real Estate/BFRC | X | | | |
| Planning | | | | |
| | | | | |

***FUNDING:*** Was funding previously approved? Yes [ ] No [ ] N/A [x]

If yes, provide the following: Dept./Div.: _____ Account #: _____

Balance in Account _____ Amount needed for this item _____

***Does this document need to be recorded at the RMC's Office?*** Yes [ ] No [x]

***NEED:*** Identify any critical time constraint(s). Agreement should be approved as soon as possible. City of North Charleston will consider matter at next City Council meeting.

**CFO's Signature:** _____

***FISCAL IMPACT:***

MEMORANDUM OF UNDERSTANDING AND AGREEMENT
BETWEEN THE CITY OF CHARLESTON, SOUTH CAROLINA,
AND EPIC CENTER, LLC

THIS MEMORANDUM OF UNDERSTANDING AND AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2020, by and between the City of Charleston, South Carolina (the "City") and Epic Center, LLC, a South Carolina limited liability company ("Owner").

RECITALS

WHEREAS, the City established the West Ashley Revitalization Project Area (the "TIF District") consisting of approximately four hundred twenty-five (425) acres pursuant to an ordinance adopted on December 6, 2016; (the "TIF Ordinance"); and

WHEREAS, the TIF Ordinance describes certain public infrastructure improvements (the "Public Improvements") to be undertaken within the TIF District; and

WHEREAS, the TIF Ordinance describes revenue bonds to be issued to defray the cost of a portion of such Public Improvements ("TIF Bonds"); and

WHEREAS, the TIF Bonds are expected to be secured by TIF Revenues; and

WHEREAS, the area commonly known as the Citadel Mall consists of approximately eighty-eight (88) acres as more fully described on the attached Exhibit A, which is incorporated herein by reference, (the "Property"), and Owner has proposed a mixed-use redevelopment project (the "Epic Center"), located within the TIF District, that will stimulate economic development; and

WHEREAS, redevelopment of the Property by both the public and the private sector is beneficial to the adjoining and nearby communities and to the future growth of the City as first described in the TIF Ordinance; and

WHEREAS, certain of the Public Improvements to be undertaken in and outside of the District include a system of roads, parks, streets, sidewalks, drainage improvements, environmental remediation, parking structures, utilities and other public infrastructure necessary for the Epic Center and beneficial to the TIF District; and

WHEREAS, in conjunction with the ongoing implementation of the Epic Center, the City (either on its own behalf or through the Developer) will undertake certain infrastructure projects necessary for the development of the Epic Center (the "Public Improvements"); and

WHEREAS, the City may contract with Owner in connection with the remediation, engineering, design, permitting, construction and equipping of such Public Improvements to be

funded in part from the proceeds available from TIF Bonds ("TIF Bond Proceeds") as well as tax increment revenues generated by the TIF District ("TIF Revenues"); and

WHEREAS, such contract shall provide for reimbursement of funds advanced by Owner for the Public Improvements; and

WHEREAS, the completion of the Epic Center is dependent upon funding of the Public Improvements from the TIF Bond Proceeds and TIF Revenues; and

WHEREAS, the Epic Center is designed to provide housing opportunities that are attainable for those working within the Epic Center, and Owner has committed to provide such attainable housing; and

WHEREAS, Owner and City wish to work together to maximum financial participation by the City, the federal government, and third-party tax developers to provide and maintain attainable housing to the fullest extent possible;

NOW THEREFORE, pursuant to the above recitations, and in consideration of the mutual covenants and promises of the parties contained herein, the parties agree as follows:

## ARTICLE I: RECITALS

The foregoing Recitals are incorporated into and made a part of this Agreement.

## ARTICLE II: TIF BONDS; TIF PROCEEDS

1. It is recognized that the principal amount of future issues of TIF Bonds is dependent upon such factors as the income stream securing such borrowings as well as interest rates then prevailing. To the extent that the TIF Bond Proceeds together with TIF Revenues permit, such sums will be expended to fund the cost of the Public Improvements in an amount and schedule to be mutually agreed upon by Owner and the City, but in no event shall the amount be less than the equivalent of the Tax Revenues generated by the Property.

2. With respect to costs incurred in the future by Owner, its affiliates and assigns (hereinafter "Epic Center Parties"), for Public Improvements within the District, and so long as consistent with the allocations established in the preceding section, and so long as the Public Improvements funded by such costs, including the budgets, have been approved by the City, the Epic Center Parties shall have the right to obtain reimbursement (or the City may elect to pay these costs directly) from TIF Revenues if excess funds from TIF Revenues exist beyond that necessary to support required annual payments for outstanding TIF Bonds and required debt coverage ratio if any, beyond debt service reserve (hereinafter "Excess TIF Revenue"). Such reimbursement rights shall be reflected in a future Reimbursement Ordinance.

## ARTICLE III: ATTAINABLE HOUSING

Owner has committed, though the Epic Center Planned Unit Development, approved on December 17, 2019 (the "PUD"), to provide a minimum amount of attainable housing for a minimum period of thirty (30) years. City and Owner wish to work together to provide additional housing and/or extend the term restricting those attainable housing units to qualified persons. In addition to utilization of TIF Revenues and TIF Bond Proceeds, the parties agree to work together to identify programs, grants and participation opportunities by the City, the federal government or other third-party tax credit developers to fund such efforts in order to bridge the financial gap between the commitment as set forth in the PUD and any additional attainable housing efforts agreed to by the Owner.

## ARTICLE IV: OTHER MATERIAL PROVISIONS

1. Any dispute which arises under or with respect to this Agreement will be in the first instance be subject to informal negotiations between the undersigned parties. The period of informal negotiations will not exceed twenty (20) calendar days from the time the dispute arises unless that period is extended by a written agreement of the parties to the dispute. The dispute will be considered to have arisen when one party sends to the other parties a written Notice of Dispute. In the event that the parties cannot resolve a dispute by informal negotiations, non-binding mediation may be invoked by either party by written notice to the other. If non-binding mediation is invoked, each party shall separately set out the nature of the dispute with a proposal for resolution in a letter submitted to a mutually agreed upon third party mediator.

2. All notices or other communications required or permitted under this Agreement shall be in writing directed to a party at its address set forth below. A party may designate a new address by written notice to the other party. All notices shall be effective and be deemed delivered upon receipt as evidenced by a signed certified mail receipt, signed overnight delivery receipt or signed acceptance of hand delivery receipt:

   City: Chief Financial Officer
   City of Charleston
   116 Meeting Street
   Charleston, SC 29401

   Owner: Epic Center, LLC
   c/o Richard C. Davis
   2070 Sam Rittenberg Blvd., Suite B276
   Charleston, SC 29407

3. This Agreement (including any attachments and any documents incorporated herein by reference) constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection herewith. No interpretation, modification,

termination or waiver of any provision of or default pursuant to this Agreement shall be binding upon a party unless in writing and signed by the party against whom enforcement is sought. All parties have participated in the preparation of this Agreement and have received advice of legal counsel; consequently this Agreement shall not be construed against either party based on the identity of the drafter of this Agreement.

4. Except as specifically provided herein to the contrary, Owner and the City agree that this Agreement is for their mutual benefit and is not intended and does not create any separate or independent rights or benefits for third parties.

5. Except as specifically provided herein to the contrary, nothing herein shall waive the powers which the City has under existing law or the rights of Owner to contest such powers.

6. This Agreement and the legal relationship between the parties shall be governed by and construed in accordance with the laws of the State of South Carolina.

7. This Agreement may be amended only by the written agreement of the parties hereto executed by all parties to this Agreement.

IN WITNESS WHEREOF, the parties have caused their authorized representatives to execute this Agreement and set their hands and seals as of the date first written above.

**CITY OF CHARLESTON**

**By**: _____

**Its**: _____

**TMP EPIC CENTER, LLC,**
**a South Carolina limited liability company**

**By**: _____
Richard C. Davis
**Its**: Representative

Date: July 22, 2020

**EXHIBIT A**

**The Property**

| Owner | TMS No. | Area (acres) |
|---|---|---|
| TMP SRE III, LLC | 310-04-00-009 | 14.249 |
| TMP SRE I, LLC | 351-04-00-015 | 19.613 |
| TMP SRE II, LLC | 351-04-00-053 | 10.651 |
| TMP SRE I, LLC | 351-04-00-043 | 0.309 |
| TMP SRE I, LLC | 351-04-00-044 | 8.207 |
| **Total PUD Area:** | | **53.029** |

| Stakeholders Parcels* | TMS No. | Area (acres) |
|---|---|---|
| Dillard's Department Store, Inc. | 351-04-00-062 | 12.392 |
| Belk, Inc. | 351-04-00-063 | 10.941 |
| Target Corporation | 351-04-00-054 | 11.725 |

**It is anticipated the stakeholder parcels will be added to the PUD and developed as Phase 2 of the project.*

C.)

# COMMERCIAL REAL ESTATE FORM

**TO:** Real Estate Committee **DATE:** July , 2020

**FROM:** Janie Borden **DEPT:** Legal Department

**ADDRESS:** Rotary Fountain at the corner of King and Calhoun Street

**TMS:** A portion of 460-16-04-005

**ACTION REQUEST:** REQUEST APPROVAL TO ACCEPT THE ROTARY CLUB OF CHARLESTON'S G OF STATUARY TO COMPLETE THE ROTARY FOUNTAIN LOCATED AT T CORNER OF KING AND CALHOUN STREETS.

***ACTION*: What action is being taken on the Property mentioned?**

[x] **ACQUISITION** Seller (Property Owner) _____ Purchaser _____

[x] **DONATION/TRANSFER**

Donated By: GIFTED BY THE ROTARY CLUB OF CHARLESTON IN CELEBRATION OF THEIR 100TH YEAR ANNIVERSARY.

[ ] **FORECLOSURE**

Terms: _____

[ ] **PURCHASE**

Terms: _____

[ ] **CONDEMNATION**

Terms: _____

[ ] **OTHER**

Terms: _____

[ ] **SALE** Seller (Property Owner) City of Charleston Purchaser Ben Moore Tatum, Jr.

[ ] **NON-PROFIT ORG,** *please name* _____

Terms: _____

[ ] **OTHER**

Terms: _____

[ ] **EASEMENT** Grantor (Property Owner) _____ Grantee _____

[ ] **PERMANENT**

Terms: _____

[ ] **TEMPORARY**

Terms: _____

# COMMERCIAL REAL ESTATE FORM

☐ **LEASE** **Lessor:** _____ **Lessee:** _____

☐ **INITIAL**

**Terms:** _____

☐ **RENEWAL**

**Terms:** _____

☐ **AMENDMENT**

**Terms:** _____

☐ **Improvement of Property**

**Owner:** _____

**Terms:** _____

_____

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***BACKGROUND CHECK*: If Property Action Request is for the sale or lease of city property, has a background check been completed?**

**Yes** ☐ **No** ☐ **N/A** ☒

**Results:** _____

**Signature:** _____

**Director Real Estate Management**

***ADDITIONAL* : Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.**

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***NEED*: Identify any critical time constraint(s).**

July 21, 2020

Rotary Club of Charleston
5 Faber Street
Charleston, South Carolina 29401

Dear Members of the Charleston Rotary:

On behalf of our great City of Charleston, I would like to thank the Rotary Club of Charleston members for the wonderful donation of sculpture completing the Rotary Fountain located at the corner of King and Calhoun Streets in downtown Charleston. The gift, commemorating the 100th anniversary of the Rotary, in Charleston, is a whimsical addition to the edge of Marion Square completing a Rotary project that began early in this decade. The City is delighted to accept the gift of this sculpture, and it looks forward to the joy that it will bring future pedestrians, motorists, and park visitors as they pass by the fountain dwellers on their way to visit Marion Square.

By accepting this gift, the City accepts the sculpture without any conditions and with the understanding that the City may continue to display, move, sell, transfer, discard or alter in any manner the sculpture as it may see fit. Furthermore, the City accepts the gift with the understanding that the Rotary is the owner of the sculpture, free of all liens and encumbrances and has the right to make this gift.

Most sincerely yours,

John J. Tecklenburg
Mayor, City of Charleston

JJT:egb