

City of Cincinnati

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AWB

An Ordinance No. _____

- 2021

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with 7AD Properties, LTD., pursuant to which the City will vacate and convey portions of certain real property designated as public rights-of-way known as Creston, Coney, and East Epworth Avenues in Spring Grove Village.

WHEREAS, the City owns certain real property designated as public rights-of-way, namely, an approximately 0.6762-acre tract of Coney and Creston Avenues and an approximately 0.2506-acre tract of East Epworth Avenue in Spring Grove Village, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (such portions of public rights-of-way being paper streets, referred to herein as the "Property"), which Property is under the management of the City's Department of Transportation and Engineering ("DOT"); and

WHEREAS, 7AD Properties, LTD., an Ohio limited liability company ("Petitioner") owns the real property adjoining the Property and has petitioned the City to vacate and sell the Property to facilitate a redevelopment project on Petitioner's property (the "Project"); and

WHEREAS, Kenneth P. Kreider, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided an Attorney's Certificate of Title dated September 22, 2021, certifying that the Petitioner is the owner of all real property abutting the Property; and

WHEREAS, pursuant to Ohio Revised Code Sec. 723.04, the City may, upon petition, vacate a street or alley if it has determined that there is good cause for the vacation and that the vacation will not be detrimental to the general interest; and

WHEREAS, the City Manager, in consultation with DOT, has determined that: (i) the Property is not needed for transportation purposes or any other municipal purpose; (ii) there is good cause to vacate the Property; and (iii) the vacation of the Property will not be detrimental to the general interest; and

WHEREAS, the City's Real Estate Services Division has determined, by professional appraisal, that the fair market value of the Property is approximately \$5,250, however, the City is agreeable to convey the Property for \$1.00 because the City will receive economic and non-economic benefits from the Project that are anticipated to equal or exceed the fair market value of the Property, including the expansion of Petitioner's manufacturing facility and the creation and retention of jobs within the City, which will stimulate economic activity and growth in the Spring Grove Village neighborhood; and

WHEREAS, pursuant to Cincinnati Municipal Code Section 331-5, Council may authorize the sale of City-owned real property without competitive bidding in those cases in which it determines that it is in the best interest of the City; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to acquire, construct, enlarge, improve, or equip and to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; and

WHEREAS, in furtherance of the foregoing public purpose, the City believes that the Project is in the vital and best interests of the City and the health, safety, and welfare of its residents and is in accordance with applicable state and local laws; and

WHEREAS, the City Planning Commission, having the authority to approve the change in the use of City-owned property, approved the vacation and sale of the Property at its regularly scheduled meeting on April 16, 2021; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute a *Property Sale Agreement* with 7AD Properties, LTD., an Ohio limited liability company (“Petitioner”), in substantially the form attached to this ordinance as Attachment A and incorporated herein by reference, pursuant to which the City of Cincinnati will vacate and convey to Petitioner an approximately 0.6762-acre portion of Coney and Creston Avenues and an approximately 0.2506-acre portion of East Epworth Avenue in Spring Grove Village, as more particularly depicted and described in the *Property Sale Agreement* (the “Property”), which Property is more particularly described as follows:

Portions of Coney Avenue and Creston Avenue

SITUATED IN SECTION 17, TOWN 3, FRACTIONAL RANGE 2, BETWEEN THE MIAMIS, MILLCREEK TOWNSHIP, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND PART OF CONEY AVENUE AND PART OF CRESTON AVENUE OF THE HAMILTON COUNTY RECORDER’S OFFICE CONTAINING 0.6762 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT A SET 5/8” IRON PIN AT THE SOUTHEAST INTERSECTION OF THE SOUTH RIGHT OF WAY TO ZIG ZAG AVENUE (UNIMPROVED) AND THE

EAST RIGHT OF WAY OF SAID CONEY AVENUE, SAID INTERSECTION BEING A NORTHWEST CORNER OF 7AD PROPERTIES, LTD AS RECORDED IN OFFICIAL RECORD 11800, PAGE 616, SAID PIN BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING, DEPARTING THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING SEVEN COURSES: SOUTH 22° 08' 00" EAST, PASSING A FOUND 5/8" IRON PIN CAPPED "JOSEPH ALLEN CO" AT 3.00 FEET, A TOTAL DISTANCE OF 574.16 FEET TO A SET 5/8" IRON PIN;

THENCE, NORTH 67° 52' 00" EAST, 10.00 FEET TO A SET 5/8" IRON PIN;

THENCE, SOUTH 22° 21' 00" EAST, 40.00 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID CONEY AVENUE;

THENCE, WITH SAID TERMINUS, SOUTH 67° 52' 00" WEST, 50.00 FEET TO A SET 5/8" IRON PIN;

THENCE, DEPARTING SAID TERMINUS, NORTH 22° 21' 00" WEST, 40.00 FEET TO A SET 5/8" IRON PIN;

THENCE, NORTH 22° 08' 00" WEST, 370.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE SOUTH RIGHT OF WAY OF SAID CRESTON AVENUE;

THENCE, SOUTH 67° 52' 00" WEST, 120.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE NORTH LINE OF AN UNNAMED 10' ALLEY;

THENCE, DEPARTING SAID 7AD PROPERTIES, LTD, SAID UNNAMED 10' ALLEY AND THROUGH THE LANDS OF SAID CRESTON AVENUE RIGHT OF WAY, NORTH 22° 08' 00" WEST, 40.00 FEET TO A SET 5/8" IRON PIN ON A LINE OF SAID 7AD PROPERTIES, LTD, SAID PIN BEING ON THE NORTH RIGHT OF WAY OF SAID CRESTON AVENUE;

THENCE, WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING TWO COURSES: NORTH 67° 52' 00" EAST, 120.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE SOUTH RIGHT OF WAY OF SAID CONEY AVENUE;

THENCE, NORTH 22° 08' 00" WEST, 148.67 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" ON THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE;

THENCE, DEPARTING SAID 7AD PROPERTIES, LTD AND WITH THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE, NORTH 46° 42' 00" EAST, 42.89 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.6762 ACRES.

BASIS OF BEARINGS: NAD86(2011) OHIO STATE PLANE COORDINATES, SOUTH ZONE (3402).

ALL SET IRON PINS ARE 5/8" X 30" IN SIZE WITH CAP "BAYER BECKER"

THE ABOVE DESCRIPTION WAS PREPARED FROM A SALE PLAT MADE ON OCTOBER 12, 2020 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

Portion of East Epworth Avenue

SITUATED IN SECTION 17, TOWN 3, FRACTIONAL RANGE 2, BETWEEN THE MIAMIS, MILLCREEK TOWNSHIP, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND PART OF EAST EPWORTH AVENUE OF THE HAMILTON COUNTY RECORDER'S OFFICE CONTAINING 0.2506 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT A POINT FOUND BY MEASURING FROM A SET 5/8" IRON PIN AT THE SOUTHEAST INTERSECTION OF THE SOUTH RIGHT OF WAY OF ZIG ZAG AVENUE (UNIMPROVED) AND THE EAST RIGHT OF WAY OF SAID CONEY AVENUE, SAID INTERSECTION BEING A NORTHWEST CORNER OF 7AD PROPERTIES, LTD AS RECORDED IN OFFICIAL RECORD 11800, PAGE 616; THENCE, DEPARTING THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING THREE COURSES: SOUTH 22° 08' 00" EAST, PASSING A FOUND 5/8" IRON PIN CAPPED "JOSEPH ALLEN CO" AT 3.00 FEET, A TOTAL DISTANCE OF 574.16 FEET TO A SET 5/8" IRON PIN; THENCE NORTH 67° 52' 00" EAST, 10.00 FEET TO A SET 5/8" IRON PIN; THENCE SOUTH 22° 21' 00" EAST, 40.00 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID CONEY AVENUE; THENCE, THROUGH THE LANDS OF SAID 7AD PROPERTIES, LTD, NORTH 67° 52' 00" EAST, 104.82 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID EAST EPWORTH AVENUE, SAID PIN BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING, THUS FOUND AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING TWO COURSES: WITH A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 41° 10' 29", A RADIUS OF 285.00 FEET, AN ARC LENGTH OF 204.81 FEET, AND A CHORD BEARING NORTH 47° 16' 46" EAST, 200.43 FEET;

THENCE, NORTH 67° 52' 00" EAST, 63.58 FEET TO A SET 5/8" IRON PIN AT THE SOUTHWEST CORNER OF KINGS RUN REAL ESTATE, LLC (TRACT 2) AS RECORDED IN OFFICIAL RECORD 13692, PAGE 478;

THENCE, DEPARTING SAID KINGS RUN REAL ESTATE, LLC (TRACT 2) AND THROUGH THE LANDS OF SAID EAST EPWORTH AVENUE RIGHT OF WAY, SOUTH 22° 06' 15" EAST, 50.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE NORTHWEST CORNER OF KINGS RUN REAL ESTATE, LLC (TRACT 1) AS RECORDED IN OFFICIAL RECORD 13692, PAGE 478 AND A NORTHEAST CORNER OF SAID 7AD PROPERTIES, LTD;

THENCE, DEPARTING SAID KINGS RUN ESTATE, LLC (TRACT 1) AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING THREE COURSES: SOUTH 67° 52' 00" WEST, 63.55 FEET TO A SET 5/8" IRON PIN;

THENCE, WITH A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 24° 05' 48", A RADIUS OF 235.00 FEET, AN ARC LENGTH OF 98.83 FEET, AND A CHORD BEARING SOUTH 55° 49' 06" WEST, 98.11 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID EAST EPWORTH;

THENCE, WITH SAID TERMINUS SOUTH 67° 52' 00" WEST, 91.69 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.2506 ACRES.

BASIS OF BEARINGS: NAD86(2011) OHIO STATE PLANE COORDINATES, SOUTH ZONE (3402).

ALL SET IRON PINS ARE 5/8" X 30" IN SIZE WITH CAP "BAYER BECKER"

THE ABOVE DESCRIPTION WAS PREPARED FROM A SALE PLAT MADE ON OCTOBER 12, 2020 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

Section 2. That the Property is not needed for transportation or other municipal purposes, that there is good cause to vacate and sell the Property, and that such vacation and sale will not be detrimental to the general interest.

Section 3. That the City's Real Estate Services Division has determined, by professional appraisal, the fair market value of the Property is approximately \$5,250; however, the City is agreeable to convey the Property for \$1.00 because the City will receive economic and non-economic benefits from a redevelopment project on Petitioner's property that are anticipated to equal or exceed the fair market value of the Property, including the expansion of Petitioner's manufacturing facility and the creation and retention of jobs within the City, which will stimulate economic activity and growth in the Spring Grove Village neighborhood.

Section 4. That eliminating competitive bidding in connection with the City's sale of the Property is in the best interest of the City because Petitioner owns all real property that abuts the Property; and, as a practical matter, no one other than an abutting property owner would have any use for the Property.

Section 5. That the proceeds from the sale of the Property, if any, shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the sale, and that the City's Finance Director is hereby

authorized to deposit amounts in excess amount thereof into Miscellaneous Permanent Improvement Fund 757.

Section 6. That the City's Finance Director is hereby authorized to transfer and appropriate such excess funds from Miscellaneous Permanent Improvement Fund 757 into Capital Improvement Program Project Account No. 980x233xYY2306, "Street Improvements," in which "YY" represents the last two digits of the fiscal year in which the closing occurs and the proceeds are received, referencing the latter fiscal year if the events occur in different fiscal years.

Section 7. That, pursuant to Ohio Revised Code Sec. 723.041, any affected public utility shall be deemed to have a permanent easement in the Property for the purpose of maintaining, operating, renewing, reconstructing, and removing its utility facilities and for purposes of access to said facilities.

Section 8. That the City Manager and other City officials are hereby authorized to take all necessary and proper actions to carry out the provisions of this ordinance; including, without limitation, executing any and all ancillary agreements, deeds, plats, and other documents to facilitate the sale and conveyance of the Property to Petitioner.

Section 9. That the City Solicitor shall cause an authenticated copy of this ordinance to be duly recorded in the land records of Hamilton County, Ohio.

Section 10. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2021

John Cranley, Mayor

Attest: _____
Clerk

ATTACHMENT A

Contract No. _____

Property: Pt. Coney, Creston, & E. Epworth

PROPERTY SALE AGREEMENT

This Property Sale Agreement (this "**Agreement**") is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the **CITY OF CINCINNATI**, an Ohio municipal corporation, the address of which for purposes of this Agreement is 801 Plum Street, Cincinnati, OH 45202 (the "**City**") and **7AD PROPERTIES, LTD.**, an Ohio limited liability company whose mailing address is 537 E. Pete Rose Way, #400, Cincinnati, OH 45202 ("**Purchaser**").

Recitals:

A. The City owns a 0.6762-acre tract of land dedicated as public right-of-way known as Coney Avenue and Creston Avenue in the Spring Grove Village neighborhood of Cincinnati, Ohio ("**Tract A**") and a 0.2506 acre tract of land dedicated as public right-of-way known as East Epworth Avenue in the Spring Grove Village neighborhood of Cincinnati, Ohio ("**Tract B**") as depicted on Exhibit A (Survey Plat) and described on Exhibit B (Quitclaim Deed) hereto (the "**Sale Property**"). The Sale Property is under the management and control of the City's Department of Community and Economic Development ("**DCED**").

B. Purchaser owns adjoining property that abuts the Sale Property, as depicted on Exhibit A hereto ("**Purchaser's Property**"). Purchaser has petitioned the City to vacate the Sale Property as public right-of-way and seeks to purchase it from the City.

C. Kenneth P. Kreider, Esq., a reputable attorney practicing in Hamilton County, Ohio, has provided the following: (i) an Attorney's Certificate of Title dated September 22, 2021, certifying that Purchaser is the owner of all real property abutting the Sale Property, and (ii) the written consent of all necessary abutters to the City's vacation and sale of the Sale Property to Purchaser, a copy of which is attached as Exhibit C (Attorney's Certificate of Title) hereto.

D. Pursuant to Ohio Revised Code Chapter 723, the legislative authority of a municipal corporation may convey the fee simple estate or other interest in land used for streets and alleys if it has determined that the property is not needed for any municipal purposes.

E. The City has determined that the Sale Property is not needed for transportation or any other municipal purpose and that the sale of the Sale Property will not be detrimental to the public interest.

F. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$5,250.00. However, the City is agreeable to selling the Sale Property to Purchaser for less than fair market value; namely, \$1.00 in recognition of the economic and noneconomic benefits the City will realize from Purchaser's expansion of its facility and its retention and creation of new jobs within the city.

G. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser owns all real property that abuts the Sale Property, and as a practical matter no one other than an abutting property owner would have any use for it.

H. Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution and research.

I. City Planning Commission, having the authority to approve the vacation of public right-of-way and the change in the use of City-owned property, approved the vacation and sale of the Sale Property to Purchaser at its meeting on April 16, 2021.

J. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. []-2021, passed on [], 2021.

NOW, THEREFORE, the parties agree as follows:

1. **Purchase Price.** Subject to the terms and conditions set forth herein, the City hereby agrees to sell the Sale Property to Purchaser, and Purchaser hereby agrees to purchase the Sale Property from the City for \$1.00 (the "Purchase Price"). Purchaser acknowledges that it is familiar with the condition of the Sale Property and, at Closing (as defined below), the City shall convey the Sale Property to Purchaser in "as is" condition. The City makes no representations or warranties to Purchaser with respect to the condition of the Sale Property and, from and after the Closing, the City shall have no liability of any kind to Purchaser for any defects, adverse environmental condition, or any other matters affecting the Sale Property.

2. **Closing.**

(A) **Conditions.** The closing on the City's sale of the Sale Property to Purchaser (the "Closing") shall not occur unless and until the following conditions have been satisfied (the "Conditions"); *provided, however,* that if the City, in its sole discretion, determines that one or more of the Conditions would be more appropriately handled at Closing or post-Closing, the City may, if appropriate, include such Conditions in the City's Quitclaim Deed to Purchaser or handle such Conditions post-Closing. Purchaser shall perform all work and investigations and shall obtain and prepare all necessary documents pertaining to the satisfaction of the Conditions, at no cost to the City.

- (i) **Title & Survey:** Purchaser's approval of title to the Sale Property and, if obtained by Purchaser, an ALTA property survey of the Sale Property;
- (ii) **Inspections, Utilities & Zoning/Building Code Requirements:** Purchaser's approval of inspections of the Sale Property, including without limitation environmental assessments and soil assessments, all matters pertaining to utility service for the Sale Property, and all zoning and building code requirements that are applicable to the Sale Property;
- (iii) **Plats and Legal Descriptions:** Purchaser shall have provided the City with all plats and legal descriptions as required by DCED, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's vacation and sale of the Sale Property;
- (iv) **Abutter's Interests:** Purchaser shall have provided the City with an attorney's certificate of title certifying the names of all abutters to the Sale Property.
- (v) **Coordinated Report Conditions (CR #90-2020):**
 - (a) **DOTe:**
 - 1. Abutting property owners must agree to the sale in writing.
 - 2. The existing utilities must be granted easements or relocated at Purchaser's expense.

3. No Auditor's parcels shall be landlocked by this vacation/sale. If possible, potential landlocked parcels should be consolidated with parcels having legal street frontage.
4. The Purchaser is required, at their expense, to provide the City with an acceptable legal description for the Sale Property that meets the recordable standards of the Hamilton County Recorder's Office.
5. Connecting streets must be closed off with standard curb, sidewalk, and/or drive approach.
6. A DOTE street opening permit, obtained by a DOTE licensed street contractor, is required for all private improvements in the public right-of-way. All improvements in the public right-of-way must be built to City standards, policies and guidelines. Application for permits may be made at Room 425, City Hall, 801 Plum Street. Please note that plan drawings (2 sets), to be reviewed by DOTE, must be attached to the permit application.
7. The proceeds from the sale of the property interests shall be deposited into Property Management Fund 209 to pay the fees for services provided by the City's Real Estate Services Division in connection with the sale, and that the City's Finance Director is hereby authorized to deposit amounts in excess thereof, if any, into the unappropriated surplus of Miscellaneous Permanent Improvement Fund 757. The City's Finance Director is authorized to transfer and appropriate the proceeds from the sale of the right-of-way property, net of real estate service fees, from the unappropriated surplus of Miscellaneous Permanent Improvement Fund 757 to Capital Improvement Program Project Account no. 980x233x212306, "Street Improvements". The Ordinance shall include this condition.

(b) MSDGC:

1. As a reminder, MSDGC Request for Availability for Sewer Service (RASS) will be required for any future development or redevelopment of the surrounding area to the Sale Property, if not already requested to MSDGC. The MSDGC RASS will determine the availability of sewers and outline any additional MSDGC project requirements that could impact a development or redevelopment if not considered early in project planning, such as the need: to obtain any MSDGC tap permits; to provide public sanitary sewer easements; to obtain an Ohio EPA Permit to Install; to utilize licensed and bonded sewer tappers with MSDGC; to arrange sewer construction inspection scheduling; to provide project on-site separation of flow requirements; to obtain a MSDGC Excavation/Fill permit and bond; to comply with MSDGC detention requirements per Section 303 of the MSDGC Rules and Regulations; to provide for a grease interception system; and/or to coordinate with City of Cincinnati Stormwater Management Utility of the Department of the Greater Cincinnati Waterworks for their specific additional detailed storm water, storm water detention, and flood plain requirements. MSDGC Development Services Branch will serve as MSDGC's point of contact.

(c) Duke Energy:

1. Duke Energy overhead electric facilities currently located within the right of way of this portion of the Sale Property could potentially be impacted by the

granting of the vacation and sale as requested. In order to minimize disruption to existing utilities within said rights of way, Duke Energy reserves the right of unrestricted ingress and egress. No structures may be constructed within said utility area in conflict with such electric facilities, nor may the utility area be physically altered so as to (i) reduce the clearances of the facilities; (ii) impair the ability to maintain the facilities or; (iii) create a hazard to the utility's facilities.

2. Any party damaging said facilities shall be responsible for all costs and expenses associated with the repair or replacement of the same.
3. If the said overhead electric facilities are to remain in the existing location, Duke Energy Ohio, Inc., Land Services would request that an easement be granted in our customarily used easement form at the time of the closing of the properties and prior to the objections being lifted.

(d) **B&I:**

1. Purchaser shall immediately create a new Consolidated Parcel incorporating all of their property holdings (including, but not limited to, purchaser's property and sale property) into one new Tax Parcel.
2. Purchaser shall immediately record a Consolidation Plat of said new Tax Parcel.

(B) **Right to Terminate.** If either party determines, after exercising reasonable good faith efforts, that any of the Conditions are not or cannot be satisfied within a reasonable period of time, such party shall have the right to terminate this Agreement by giving written notice thereof to the other party, whereupon this Agreement and all rights and obligations of the parties hereunder shall terminate. If all of the Conditions have not been satisfied to the satisfaction of both parties or waived in writing and for that reason the Closing has not occurred within **90 days** after the Effective Date, this Agreement and all rights and obligations of the parties hereunder shall automatically terminate.

(C) **Closing Date.** Provided the Conditions have been satisfied, the Closing shall take place **30 days** after the Effective Date, or on such earlier or later date as the parties may agree upon.

(D) **Closing Costs and Closing Documents.** At the Closing, (i) Purchaser shall pay the Purchase Price in full, and (ii) the City shall convey all of its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit B. Purchaser shall pay all Hamilton County, Ohio recording fees, transfer tax, and any and all other customary closing costs associated with the Closing. There shall be no proration of real estate taxes and assessments at Closing, and from and after the Closing, Purchaser shall pay all real estate taxes and assessments thereafter becoming due. At Closing, the parties shall execute a settlement statement and any and all other customary closing documents that are necessary for the Closing, in such forms as are approved by the City. The City shall not however be required to execute a title affidavit at Closing or other similar documents pertaining to title, it being acknowledged by Purchaser that the City is selling the Sale Property "as is." Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Purchaser shall pay to the City any and all unpaid related and unrelated fines, penalties, judgments, water or other utility charges, and any and all other outstanding amounts owed by Purchaser to the City. The provisions of this Agreement shall survive the City's execution and delivery of the *Quitclaim Deed* and shall not be deemed to have been merged therein.

3. **Notices.** All notices given by the parties hereunder shall be deemed given if personally delivered, delivered by Federal Express, UPS or other recognized overnight courier, or mailed by U.S. regular or certified mail, addressed to the parties at their respective addresses set forth in the introductory paragraph of this Agreement. If Purchaser sends a notice to the City alleging that the City is in default

under this Agreement, Purchaser shall simultaneously send a copy of such notice by U.S. certified mail to: City Solicitor, 801 Plum Street, Suite 214, Cincinnati, OH 45202. Notices shall be deemed given on the date of receipt.

4. Representations, Warranties, and Covenants of Purchaser. Purchaser makes the following representations, warranties and covenants to induce the City to enter into this Agreement:

(i) Purchaser has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein. This Agreement has by proper action been duly authorized, executed and delivered by Purchaser and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of Purchaser.

(ii) Purchaser's execution, delivery, and performance of this Agreement, and the transaction contemplated, hereby will not violate any applicable laws, or any writ or decree of any court or governmental instrumentality, or any mortgage, contract, agreement or other undertaking to which Purchaser is a party or which purports to be binding upon Purchaser or upon any of its assets, nor is Purchaser in violation or default of any of the foregoing.

(iii) There are no actions, suits, proceedings or governmental investigations pending, or to the knowledge of Purchaser, threatened against or affecting Purchaser, at law or in equity or before or by any governmental authority.

(iv) Purchaser shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute or governmental proceedings or investigation affecting Purchaser that could reasonably be expected to interfere substantially or materially and adversely affect its financial condition or its purchase of the Sale Property.

(v) The statements made in the documentation provided by Purchaser to the City have been reviewed by Purchaser and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make such statements, in light of the circumstances under which they were made, not misleading.

(vi) Purchaser does not owe any outstanding fines, penalties, judgments, water or other utility charges or other amounts to the City.

5. General Provisions.

(A) Entire Agreement. This Agreement (including the exhibits hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior discussions, negotiations, representations or agreements, written or oral, between them respecting the subject matter hereof.

(B) Amendments. This Agreement may be amended only by a written amendment signed by both parties.

(C) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the City of Cincinnati and the State of Ohio. All actions regarding this Agreement shall be brought in the Hamilton County Court of Common Pleas, and Purchaser agrees that venue in such court is proper. Purchaser hereby waives trial by jury with respect to any and all disputes arising under this Agreement.

(D) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and assigns. Purchaser shall not assign its rights or obligations under this Agreement without the prior written consent of the City,

which may be withheld in the City's sole discretion, and any attempt to do so without the City's consent shall, at the City's option, render this Agreement null and void.

(E) Captions. The captions of the various sections and paragraphs of this Agreement are not part of the context hereof and are only guides to assist in locating such sections and paragraphs and shall be ignored in construing this Agreement.

(F) Severability. If any part of this Agreement is held by a court of law to be void, illegal or unenforceable, such part shall be deemed severed from this Agreement, and the balance of this Agreement shall remain in full force and effect.

(G) No Third Party Beneficiaries. The parties hereby agree that no third-party beneficiary rights are intended to be created by this Agreement.

(H) Brokers. Purchaser represents to the City that Purchaser has not dealt with any real estate brokers and agents in connection with its purchase of the Sale Property.

(I) Official Capacity. All representations, warranties, covenants, agreements and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future officer, agent, employee or attorney of the City in other than his or her official capacity.

(J) Conflict of Interest. No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning or carrying out of the property sale shall have any personal financial interest, direct or indirect, in the property sale, and Purchaser shall take appropriate steps to assure compliance.

(K) Administrative Actions. To the extent permitted by applicable laws, and unless otherwise expressly provided in this Agreement, all actions taken or to be taken by the City under this Agreement may be taken by administrative action and shall not require legislative action of the City beyond the legislative action authorizing the execution of this Agreement.

(L) Counterparts; E-Signature. This Agreement may be executed via electronic signature and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

6. Exhibits. The following exhibits are attached hereto and made a part hereof:
Exhibit A – *Survey Plat*
Exhibit B – *Form of Quit Claim Deed*
Exhibit C – *Attorney's Certificate of Title*

[signature pages follow]

Executed by the parties on the dates indicated below their respective signatures, effective as of the latest of such dates (the "Effective Date").

7AD PROPERTIES, LTD.,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

[City signatures on the following page]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2021

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____

Karen Alder, City Finance Director

EXHIBIT A
to Property Sale Agreement

SURVEY PLAT

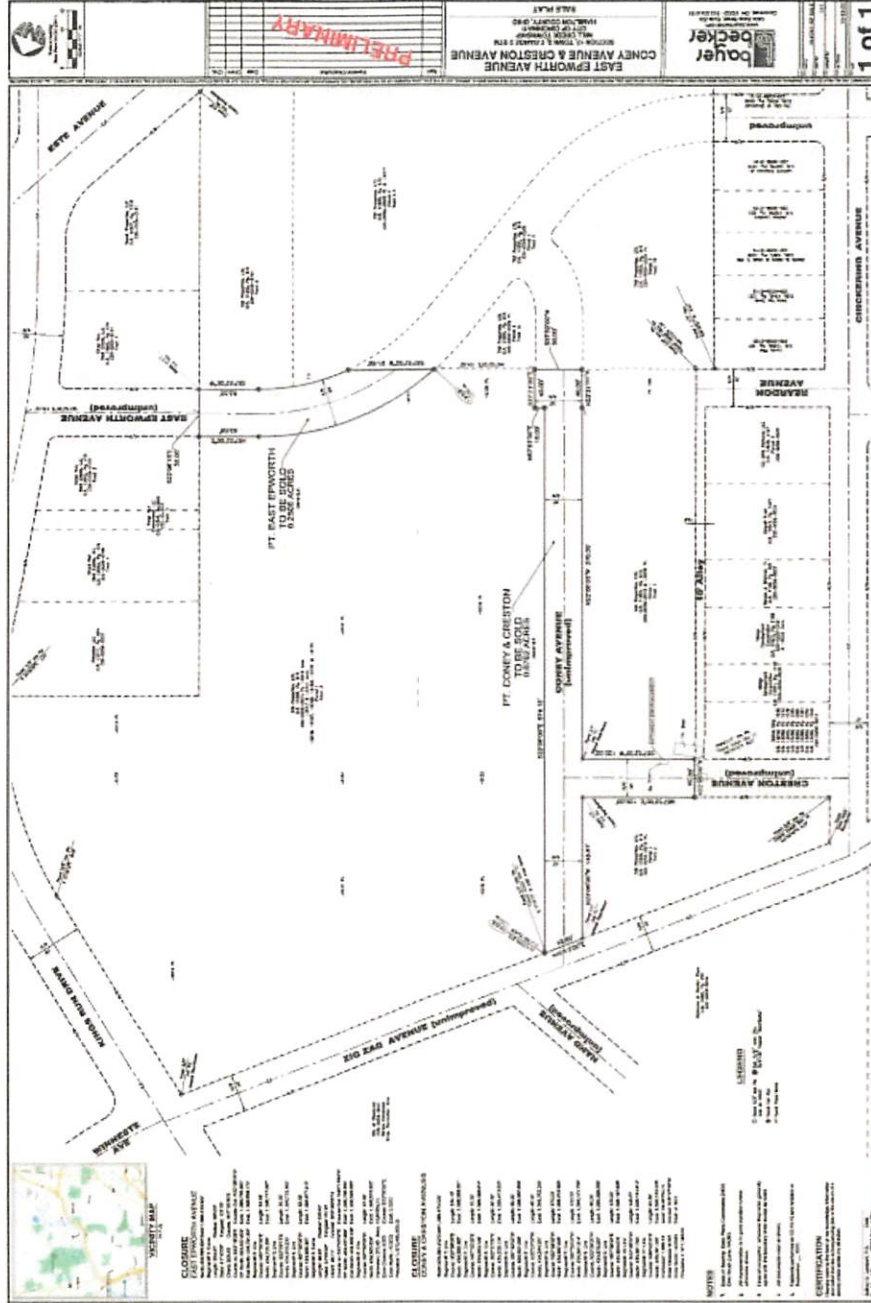


EXHIBIT B
to Property Sale Agreement

FORM OF QUIT CLAIM DEED

----- space above for recorder -----

QUITCLAIM DEED

(Portion of Coney Avenue, Creston Avenue, and East Epworth Avenue)

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), for valuable consideration paid, hereby grants and conveys to **7AD PROPERTIES, LTD.**, an Ohio limited liability company, whose tax mailing address is 537 E. Pete Rose Way, #400, Cincinnati, OH 45202, ("**Grantee**"), all of the City's right, title and interest in and to the real property depicted on Exhibit A (*Survey Plat*) and described on Exhibit B (*Legal Description*) hereto (the "**Property**"):

Tract 1:

| | |
|-----------------------------|---|
| Property Address: | None; certain portions of former public right-of-way known as Coney Avenue and Creston Avenue |
| Auditor's parcels: | None (former public right-of-way) |
| Prior instrument reference: | None (former public right-of-way) |

Tract 2:

| | |
|-----------------------------|---|
| Property Address: | None; certain portions of former public right-of-way known as East Epworth Avenue |
| Auditor's parcels: | None (former public right-of-way) |
| Prior instrument reference: | None (former public right-of-way) |

Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. __-2021, passed by Cincinnati City Council on _____, 2021, the Property is hereby vacated as public right-of-way by the City.

(A) Creation of Utility Easement: This conveyance is subject to R.C. Section 723.041 so that any affected public utility shall be deemed to have a permanent easement in such vacated portions of Coney Avenue, Creston Avenue, and East Epworth Avenue for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purposes of access to said facilities.

This conveyance was authorized by Ordinance No. __-2021, passed by Cincinnati City Council on _____, 2021.

Executed on _____, 2021.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ___ day of _____, 2021 by _____, the _____ of the City of Cincinnati, an Ohio municipal corporation, on behalf of the municipal corporation. The notarial act certified hereby is an acknowledgment. No oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

Notary Public
My commission expires: _____

Approved by:

John S. Brazina, Director
Department of Transportation and Engineering

Approved as to Form:

Assistant City Solicitor

This instrument prepared by:

City of Cincinnati Law Department,
801 Plum Street, Suite 214,
Cincinnati, Ohio 45202

Exhibit A
to Quitclaim Deed
Survey Plat

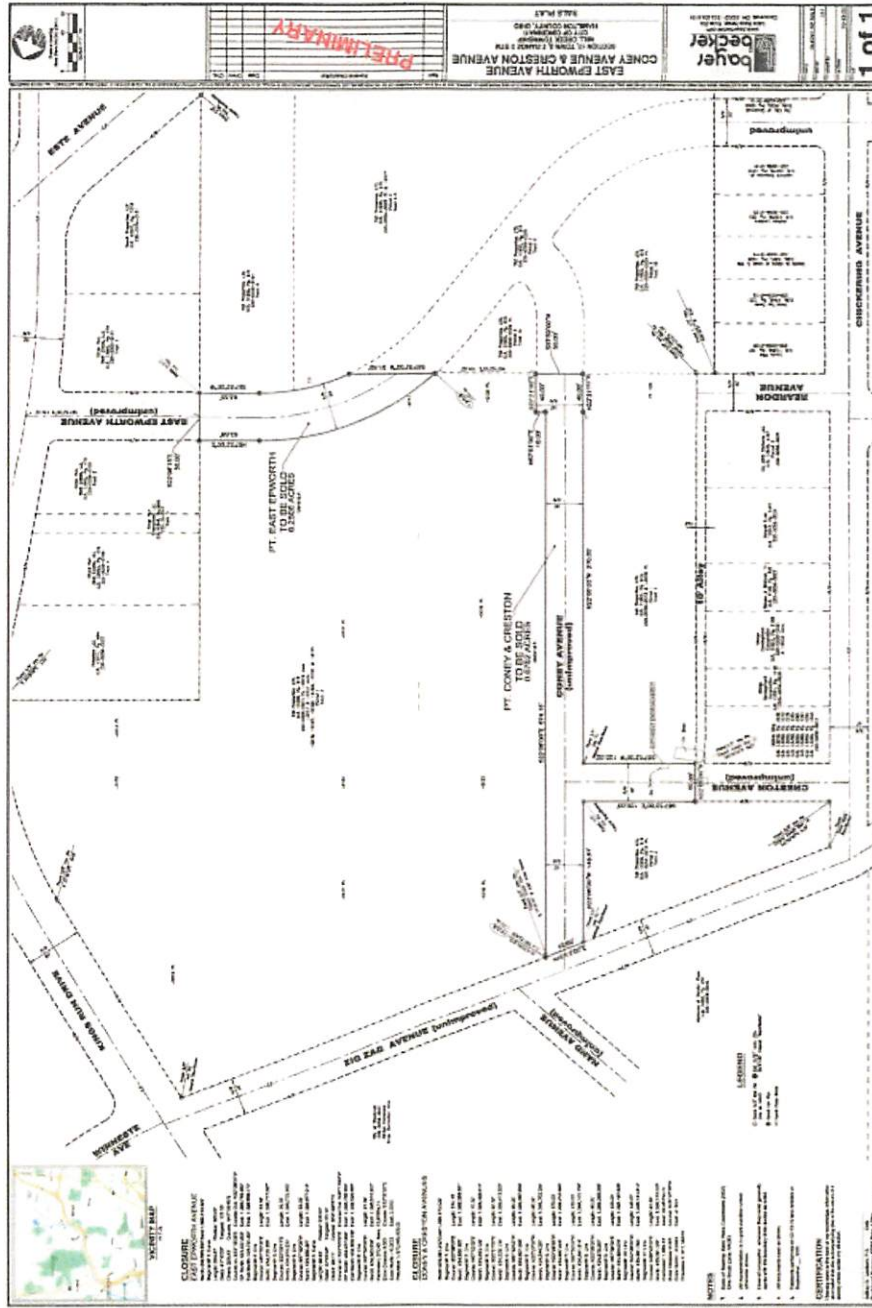


Exhibit B
to Quitclaim Deed
Legal Description

Tract 1

SITUATED IN SECTION 17, TOWN 3, FRACTIONAL RANGE 2, BETWEEN THE MIAMIS, MILLCREEK TOWNSHIP, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND PART OF CONEY AVENUE AND PART OF CRESTON AVENUE OF THE HAMILTON COUNTY RECORDER'S OFFICE CONTAINING 0.6762 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT A SET 5/8" IRON PIN AT THE SOUTHEAST INTERSECTION OF THE SOUTH RIGHT OF WAY TO ZIG ZAG AVENUE (UNIMPROVED) AND THE EAST RIGHT OF WAY OF SAID CONEY AVENUE, SAID INTERSECTION BEING A NORTHWEST CORNER OF 7AD PROPERTIES, LTD AS RECORDED IN OFFICIAL RECORD 11800, PAGE 616, SAID PIN BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING, DEPARTING THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING SEVEN COURSES: SOUTH 22° 08' 00" EAST, PASSING A FOUND 5/8" IRON PIN CAPPED "JOSEPH ALLEN CO" AT 3.00 FEET, A TOTAL DISTANCE OF 574.16 FEET TO A SET 5/8" IRON PIN;

THENCE, NORTH 67° 52' 00" EAST, 10.00 FEET TO A SET 5/8" IRON PIN;

THENCE, SOUTH 22° 21' 00" EAST, 40.00 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID CONEY AVENUE;

THENCE, WITH SAID TERMINUS, SOUTH 67° 52' 00" WEST, 50.00 FEET TO A SET 5/8" IRON PIN;

THENCE, DEPARTING SAID TERMINUS, NORTH 22° 21' 00" WEST, 40.00 FEET TO A SET 5/8" IRON PIN;

THENCE, NORTH 22° 08' 00" WEST, 370.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE SOUTH RIGHT OF WAY OF SAID CRESTON AVENUE;

THENCE, SOUTH 67° 52' 00" WEST, 120.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE NORTH LINE OF AN UNNAMED 10' ALLEY;

THENCE, DEPARTING SAID 7AD PROPERTIES, LTD, SAID UNNAMED 10' ALLEY AND THROUGH THE LANDS OF SAID CRESTON AVENUE RIGHT OF WAY, NORTH 22° 08' 00" WEST, 40.00 FEET TO A SET 5/8" IRON PIN ON A LINE OF SAID 7AD PROPERTIES, LTD, SAID PIN BEING ON THE NORTH RIGHT OF WAY OF SAID CRESTON AVENUE;

THENCE, WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING TWO COURSES: NORTH 67° 52' 00" EAST, 120.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE SOUTH RIGHT OF WAY OF SAID CONEY AVENUE;

THENCE, NORTH 22° 08' 00" WEST, 148.67 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" ON THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE;

THENCE, DEPARTING SAID 7AD PROPERTIES, LTD AND WITH THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE, NORTH 46° 42' 00" EAST, 42.89 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.6762 ACRES.

BASIS OF BEARINGS: NAD86(2011) OHIO STATE PLANE COORDINATES, SOUTH ZONE (3402).

ALL SET IRON PINS ARE 5/8" X 30" IN SIZE WITH CAP "BAYER BECKER"

THE ABOVE DESCRIPTION WAS PREPARED FROM A SALE PLAT MADE ON OCTOBER 12, 2020 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

Tract 2

SITUATED IN SECTION 17, TOWN 3, FRACTIONAL RANGE 2, BETWEEN THE MIAMIS, MILLCREEK TOWNSHIP, THE CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, AND PART OF EAST EPWORTH AVENUE OF THE HAMILTON COUNTY RECORDER'S OFFICE CONTAINING 0.2506 ACRES AND BEING FURTHER DESCRIBED AS FOLLOWS:

BEGIN AT A POINT FOUND BY MEASURING FROM A SET 5/8" IRON PIN AT THE SOUTHEAST INTERSECTION OF THE SOUTH RIGHT OF WAY OF ZIG ZAG AVENUE (UNIMPROVED) AND THE EAST RIGHT OF WAY OF SAID CONEY AVENUE, SAID INTERSECTION BEING A NORTHWEST CORNER OF 7AD PROPERTIES, LTD AS RECORDED IN OFFICIAL RECORD 11800, PAGE 616; THENCE, DEPARTING THE SOUTH RIGHT OF WAY OF SAID ZIG ZAG AVENUE AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING THREE COURSES: SOUTH 22° 08' 00" EAST, PASSING A FOUND 5/8" IRON PIN CAPPED "JOSEPH ALLEN CO" AT 3.00 FEET, A TOTAL DISTANCE OF 574.16 FEET TO A SET 5/8" IRON PIN; THENCE NORTH 67° 52' 00" EAST, 10.00 FEET TO A SET 5/8" IRON PIN; THENCE SOUTH 22° 21' 00" EAST, 40.00 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID CONEY AVENUE; THENCE, THROUGH THE LANDS OF SAID 7AD PROPERTIES, LTD, NORTH 67° 52' 00" EAST, 104.82 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID EAST EPWORTH AVENUE, SAID PIN BEING THE TRUE POINT OF BEGINNING;

THENCE, FROM THE TRUE POINT OF BEGINNING, THUS FOUND AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING TWO COURSES: WITH A CURVE TO THE RIGHT, HAVING A CENTRAL ANGLE OF 41° 10' 29", A RADIUS OF 285.00 FEET, AN ARC LENGTH OF 204.81 FEET, AND A CHORD BEARING NORTH 47° 16' 46" EAST, 200.43 FEET;

THENCE, NORTH 67° 52' 00" EAST, 63.58 FEET TO A SET 5/8" IRON PIN AT THE SOUTHWEST CORNER OF KINGS RUN REAL ESTATE, LLC (TRACT 2) AS RECORDED IN OFFICIAL RECORD 13692, PAGE 478;

THENCE, DEPARTING SAID KINGS RUN REAL ESTATE, LLC (TRACT 2) AND THROUGH THE LANDS OF SAID EAST EPWORTH AVENUE RIGHT OF WAY, SOUTH 22° 06' 15" EAST, 50.00 FEET TO A FOUND 5/8" IRON PIN CAPPED "BAYERBECKER" AT THE NORTHWEST CORNER OF KINGS RUN REAL ESTATE, LLC (TRACT 1) AS RECORDED IN OFFICIAL RECORD 13692, PAGE 478 AND A NORTHEAST CORNER OF SAID 7AD PROPERTIES, LTD;

THENCE, DEPARTING SAID KINGS RUN ESTATE, LLC (TRACT 1) AND WITH SAID 7AD PROPERTIES, LTD THE FOLLOWING THREE COURSES: SOUTH 67° 52' 00" WEST, 63.55 FEET TO A SET 5/8" IRON PIN;

THENCE, WITH A CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 24° 05' 48", A RADIUS OF 235.00 FEET, AN ARC LENGTH OF 98.83 FEET, AND A CHORD BEARING SOUTH 55° 49' 06" WEST, 98.11 FEET TO A SET 5/8" IRON PIN AT THE TERMINUS OF SAID EAST EPWORTH;

THENCE, WITH SAID TERMINUS SOUTH 67° 52' 00" WEST, 91.69 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.2506 ACRES.

BASIS OF BEARINGS: NAD86(2011) OHIO STATE PLANE COORDINATES, SOUTH ZONE (3402).

ALL SET IRON PINS ARE 5/8" X 30" IN SIZE WITH CAP "BAYER BECKER"

THE ABOVE DESCRIPTION WAS PREPARED FROM A SALE PLAT MADE ON OCTOBER 12, 2020 UNDER THE DIRECTION OF JEFFREY O. LAMBERT, PROFESSIONAL SURVEYOR #7568 IN THE STATE OF OHIO.

Exhibit C
to Property Sale Agreement
Attorney Certificate of Title