

City of Cincinnati

CHM

EESW

An Ordinance No. _____ - 2023

AUTHORIZING the City Manager to execute a *Property Sale Agreement* with BAM Realty Group, LLC, pursuant to which the City will vacate and convey a portion of the public right-of-way known as Madison Road in Oakley.

WHEREAS, the City owns the public right-of-way known as Madison Road, including an approximately 0.0635-acre portion located northeast of Brazee Street, as more particularly depicted and described in the *Property Sale Agreement* attached to this ordinance as Attachment A and incorporated herein by reference (such portion of public right-of-way being an undeveloped berm, referred to herein as the “Property”), which Property is under the management of the City’s Department of Transportation and Engineering (“DOTe”); 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, BAM Realty Group, LLC, 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; and

WHEREAS, the City’s vacation and sale of the Property was published in a local newspaper of general circulation for six consecutive weeks pursuant to Sections 723.04 and 723.07, Ohio Revised Code; and

WHEREAS, pursuant to Section 331-1, Cincinnati Municipal Code, the City may sell real property that is not needed for municipal purposes; and

WHEREAS, the City Manager, in consultation with DOTe, 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 a professional appraisal, that the fair market value of the Property is approximately \$5,800, which Petitioner has agreed to pay; 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 redevelopment project on Petitioner's property 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 October 15, 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 BAM Realty Group, LLC, 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 0.0635-acre portion of Madison Road in Oakley, as more particularly depicted and described in the *Property Sale Agreement* ("Property"), which Property is more particularly described as follows:

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing iron pin with cap stamped "Nordloh" in the west line of Madison Road and at the most easterly corner of a tract conveyed to BAM Realty Group, LLC in Official Record 14187, Page 1166 of the Hamilton County Recorder's Office;

Thence through the lands of the Grantor, South 37°06'41" East, 35.24 feet to a set iron pin in the proposed right of way;

Thence with the proposed right of way and through the land of the Grantor the following five (5) courses:

1. South 52°44'36" West, 5.78 feet to a set iron pin,
2. South 62°10'16" West, 16.99 feet to a set iron pin,
3. South 62°54'32" West, 41.03 feet to a set iron pin,
4. South 53°03'42" West, 33.30 feet to a set iron pin,
5. North 37°20'54" West, 24.88 feet to a set iron pin in a southeast line of aforesaid BAM Realty Group, LLC;

Thence with a southeast line of said BAM Realty Group, LLC, North 52°39'06" East, 96.36 feet to the POINT OF BEGINNING.

CONTAINING 0.0635 ACRES and being subject to all legal easements and highways of record.

The above-described tract being part of a right of way parcel conveyed to the City of Cincinnati in D.B. 3266, Page 159 of the Hamilton County Recorder's Office.

The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83) as Established by ODOT VRS GPS Observations Calibrated to City of Cincinnati Control Monuments.

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 a professional appraisal, the fair market value of the Property is approximately \$5,800, which Petitioner has agreed to pay.

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 the majority of the abutting property and, as a practical matter, only an abutting property owner would have any practical 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 vacate the Property as public right-of-way and convey 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: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

ATTACHMENT A

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 **BAM REALTY GROUP, LLC**, an Ohio limited liability company, whose tax mailing address is 3094 Madison Road, Cincinnati, OH 45209 ("**Purchaser**").

Recitals:

A. The City owns certain real property designated as a portion of the public right-of-way known as Madison Road in the Oakley neighborhood of Cincinnati, Ohio, as more particularly described on Exhibit A (*Legal Description- the Sale Property*) hereto (the "**Sale Property**"), which Sale Property is under the management of the City's Department of Transportation and Engineering ("**DOT**").

B. Purchaser owns certain real property adjoining the Sale Property, as depicted on Exhibit B (*Site Survey*) hereto ("**Purchaser's Property**"), and desires to purchase from the City the Sale Property to consolidate said Sale Property with Purchaser's Property.

C. Pursuant to Chapter 723 of the Ohio Revised Code, 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 municipal purposes.

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

E. Notice of the City's vacation and sale of the Sale Property was published in a local newspaper of general circulation for six consecutive weeks pursuant to sections 723.04 and 723.07, Ohio Revised Code.

F. The City's Real Estate Services Division has determined, by a professional appraisal, that the fair market value of the Sale Property is \$5,800.00, which has been deposited with the City Treasurer.

G. The City has determined that eliminating competitive bidding in connection with the City's sale of the Sale Property is justified because Purchaser's Property 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 change in the use of City-owned property, approved the sale of the Sale Property to Purchaser at its meeting on October 15, 2021.

J. Execution of this Agreement was authorized by Cincinnati City Council by Ordinance No. []-2023, passed on [], 2023.

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 {00363545-1}

from the City for \$5,800.00 (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, Legal Descriptions and Deed: Purchaser shall have provided the City with all plats and legal descriptions as required by DOTE, the City Planning Department, and the Hamilton County Auditor and Recorder in connection with the City's sale of the Sale Property, including, but not limited to: [x] an acceptable deed of record evidencing Purchaser as the vested legal owner as to Purchaser's Property; [y] an acceptable survey plat and legal description with closure of the Sale Property to accompany the transfer and recording of the Quitclaim Deed in substantially the form attached as Exhibit C – (Form of Quitclaim Deed – Sale Property); and [z] an acceptable survey plat and legal description with closure to consolidate the Sale Property with Purchaser's Property immediately after recording of the Quitclaim Deed – Sale Property in substantially the form attached as Exhibit D (Consolidation Plat – Sale Property and Purchaser's Property);
- (iv) Coordinated Report Conditions (CR #39-2021):
 - (a) DOTE:
 1. The Sale Property shall not include the portion of right-of-way that contains the existing sidewalk. This area shall remain right-of-way.
 2. No vehicular access will be permitted to this parcel from Madison Road now or in the future.
 3. Legal public access is needed for pedestrians using the bridge.
 4. The City shall create and reserve a 15'-0" wide access easement within the Sale Property immediately adjacent to the existing pedestrian bridge for the purpose of providing access to the bridge for performing future bridge maintenance, repairs, replacement, and/or demolition of the pedestrian bridge.

5. The City shall reserve easements for any existing utility facilities. The relocation of utility facilities shall be at Purchaser's expense.
6. A covenant shall be placed on the property that no Off-Site Advertising is permitted to occur on the site.
7. [intentionally omitted].
8. 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.

(b) Duke Energy: Duke Energy Electric requires an easement for existing facilities located on the Sale Property.

(c) Cincinnati Bell: Cincinnati Bell requires an easement for existing facilities located on the Sale Property. Such facilities must remain in place, in service and able to be accessed. Any damage done to the facilities, or any work done to relocate the facilities as a result as of this request will be handled entirely at the property owner's expense

(d) Buildings & Inspections:

1. Purchaser must be the vested owner of record of Purchaser's Property prior to Closing and shall consolidate the Sale Property with the Purchaser's Property immediately upon transfer of the Sale Property from the City.
2. The property to be conveyed shall be immediately consolidated with the Purchaser's Property immediately upon sale.
3. [intentionally omitted]

(B) Right to Terminate. If either party determines, after exercising good faith efforts, that any of the Conditions are not or cannot be satisfied within a reasonable period, 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 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) City shall confirm that Purchaser has paid the Purchase Price in full, and (ii) the City shall convey all its right, title and interest in and to the Sale Property to Purchaser by *Quitclaim Deed* in the form of Exhibit C. 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 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

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acknowledged by Purchaser that the City is selling the Property "as is." Pursuant to Section 301-20, Cincinnati Municipal Code, at Closing, Purchaser shall pay to the City 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 is an Ohio limited liability company duly organized and validly existing under the laws of the State of Ohio, is authorized to transact business in the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws relevant to the transactions contemplated by this Agreement.

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

(vi) 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.

(vii) Neither Purchaser, nor any of its affiliates, 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.

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(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 – *Legal Description -the Sale Property*
- Exhibit B – *Site Survey*
- Exhibit C – *Form of Quit Claim Deed*

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

BAM REALTY GROUP, LLC,
an Ohio limited liability company

By: _____

Printed Name: _____

Title: _____

Date: _____, 2023

[City signatures on the following page]

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

Date: _____, 2023

Recommended by:

John Brazina, Director
Department of Transportation and
Engineering

Approved as to Form:

Assistant City Solicitor

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director

EXHIBIT A
to Property Sale Agreement

Legal Description - the Sale Property

Auditor's Parcel No.: None
Property Address: None; Madison Road, Cincinnati, Ohio 45209

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing iron pin with cap stamped "Nordloh" in the west line of Madison Road and at the most easterly corner of a tract conveyed to BAM Realty Group, LLC in Official Record 14187, Page 1166 of the Hamilton County Recorder's Office;

Thence through the lands of the Grantor, South 37°06'41" East, 35.24 feet to a set iron pin in the proposed right of way;

Thence with the proposed right of way and through the land of the Grantor the following five (5) courses:

1. South 52°44'36" West, 5.78 feet to a set iron pin,
2. South 62°10'16" West, 16.99 feet to a set iron pin,
3. South 62°54'32" West, 41.03 feet to a set iron pin,
4. South 53°03'42" West, 33.30 feet to a set iron pin,
5. North 37°20'54" West, 24.88 feet to a set iron pin in a southeast line of aforesaid BAM Realty Group, LLC;

Thence with a southeast line of said BAM Realty Group, LLC, North 52°39'06" East, 96.36 feet to the **POINT OF BEGINNING**.

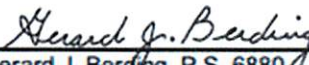
CONTAINING 0.0635 ACRES and being subject to all legal easements and highways of record.

The above described tract being part of a right of way parcel conveyed to the City of Cincinnati in D.B. 3266, Page 159 of the Hamilton County Recorder's Office.

The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83) as Established by ODOT VRS GPS Observations Calibrated to City of Cincinnati Control Monuments.

All iron pins set are 5/8" X 30" rebar with cap stamped "G.J. BERDING SURVEYING, INC".

Prepared by G.J. BERDING SURVEYING, INC. on April 15, 2021. Based on a Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on June 4, 2020, revised on April 15, 2021.


Gerard J. Berding, P.S. 6880

April 15, 2021
Date



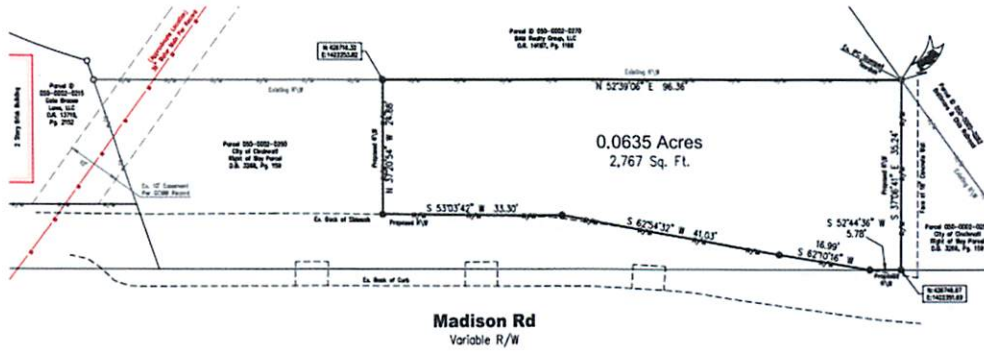
EXHIBIT B to Property Sale Agreement Site Survey



Close Report - 0.0635 Acres

Proj	Bearing	Distance	Station	Station
38	S 57°04'30" E	25.24	438774.78	1422335.43
40	S 57°04'30" E	5.78	438774.67	1422331.69
41	S 57°04'30" E	16.09	438774.18	1422347.29
42	S 57°04'30" E	41.03	438773.24	1422333.58
43	S 57°04'30" E	33.28	438774.36	1422335.13
44	S 57°04'30" E	24.58	438868.34	1422283.86
45	S 57°04'30" E	46.26	438774.32	1422335.83
39	S 57°04'30" E	46.26	438774.78	1422335.43

Close Area Distance: 0.0635 Acres
Close Perimeter: 134.470428 Feet
Close Area: 2767 Sq. Ft.



OCCUPATION
As Shown On Plat

Plat of Survey

Barron Peck Bennie
& Schlemmer Co., LPA
3230 Madison Rd

Section 28, Town 4, F.R. 2
City of Cincinnati
Hamilton County, Ohio

AYR | G.B. | 1" = 10'

06/04/2020 | 19133

Survey References:
* Consultation Plat by John J. Duffy & Associates,
P.B. 434, Pg. 55 of the Hamilton County Recorder's Office
* Survey by Hamilton & Associates, Inc. dated August 2013
* Deeds of record as shown herein.

Indicates set 5/16" x 3/2" Iron Pin and Cap
Indicates existing iron Pin, unless noted otherwise



Howard J. Berding
Grand J. Berding, P.S. - 6820
berding@berding-surveying.com

4-15-2021
Date



Berding Surveying

GPS Surveying • 3D Laser Scanning

7411 Van Meter S. 19824, OH 45150 | www.berdingsurveying.com

614.883.8121 | Fax: 614.883.8888

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EXHIBIT C
to Property Sale Agreement
Form of Quitclaim Deed

[SEE ATTACHED]

QUITCLAIM DEED

The **CITY OF CINCINNATI**, an Ohio municipal corporation (the "**City**"), for valuable consideration paid, hereby grants and conveys to **BAM REALTY GROUP, LLC**, an Ohio limited liability company, whose tax mailing address is 3094 Madison Road, Cincinnati, OH 45209 ("**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**").

Property Address: None; certain portions of former public right-of-way known as Madison Road
Auditor's Parcel ID No.: None; (former public right-of-way)
Prior instrument reference: D.B. 3266, Pg. 159, Hamilton County, Ohio Records.

Pursuant to Ohio Revised Code Chapter 723 and Ordinance No. __-2023, passed by Cincinnati City Council on _____, 2023, the Property is hereby vacated as public right-of-way by the City.

This conveyance is subject to the exceptions, reservations, easements, covenants, and restrictions set forth below. Grantee, its successors, and assigns shall forever hold, develop, encumber, lease, occupy, improve, build upon, use, and convey the Property subject to such exceptions, reservations, easements, covenants, and restrictions, which shall "run with the land" and be binding upon Grantee and its successors-in-interest with respect to the Property.

(A) Creation of Utility Easements: 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 the Property to maintain, operate, renew, reconstruct, and remove said utility facilities and to access said facilities.

(B) Limitation of Access Rights: The City hereby expressly excepts from this conveyance any and all abutter's rights for vehicular access to the Madison Road public right-of-way.

(C) Reservation of Access Easement: The City hereby expressly reserves for itself and its successors and assigns a non-exclusive, permanent easement in, on, over, and across a portion of the Property 15 feet in width measuring perpendicular from the Property's boundary line with the residue of the property conveyed to the City of Cincinnati by deed dated December 6, 1962, and recorded in Deed Book 3266, Page 159, Hamilton County, Ohio Records (the "**Easement Area**"), to perform any and all activities necessary and appropriate to access, re-access, and use the Easement Area to facilitate the inspection, construction, reconstruction, maintenance, repair, replacement, modification, demolition, and {00363545-1}

removal of an existing pedestrian bridge and associated structural support systems located adjacent to the Easement Area.

No structure that can interfere with access to the Easement Area shall be placed in or upon the Easement Area, except items such as pavement or other surfaces used for pedestrian ingress and egress, landscaping, or other similar items, being natural or artificial. The City, its successors, or assigns shall not be responsible for damage to, or replacement of, any items placed upon the Easement Area by Grantee, its successors, and assigns, arising out of, or related to, the City's use of the Easement Area. Further, the City shall not be responsible to Grantee, its successors, or assigns for any damages which result from disruption or denial of access rights related to, or arising out of, the City's use of the Easement Area.

(D) No Off-Site Advertising. Grantee shall not construct or permit to be placed upon any portion of the Property any form of off-site advertising. For clarity, following the consolidation of the Property with Grantee's adjoining parcel as set forth in (E) below, this restriction shall not prohibit the construction, erection, placement, or display of signs that pertain to businesses, activities or uses that take place on the consolidated parcel.

(E) Consolidation. This conveyance shall not create an additional building site. Upon transfer, Grantee shall consolidate the Property with Grantee's adjoining property. Grantee may not convey the Property separately from Grantee's adjoining parcel without the prior approval of the authority having jurisdiction of plats.

This conveyance was authorized by Ordinance No. __-2023, passed by Cincinnati City Council on _____, 2023.

The following exhibits are attached hereto and made a part hereof:

- Exhibit A – *Survey Plat*
- Exhibit B – *Legal Description*

[SIGNATURE PAGE FOLLOWS]

Executed on _____, 2023.

CITY OF CINCINNATI

By: _____

Printed Name: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023 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 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

{00363545-1}

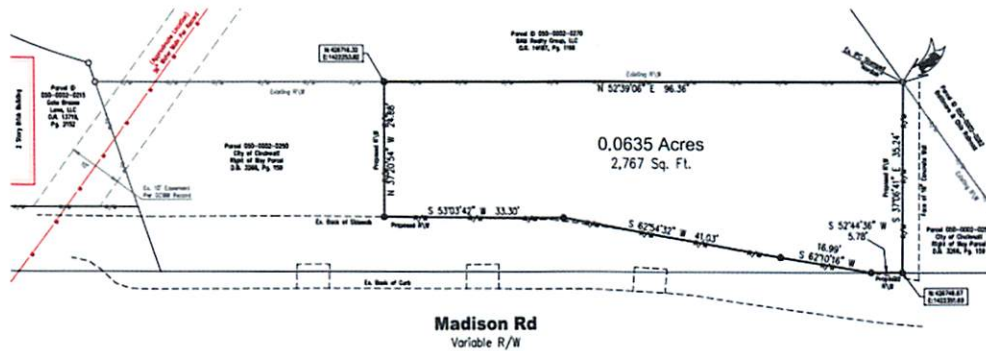
EXHIBIT A to Quitclaim Deed Survey Plat



Close Report - 0.0635 Acres

Point #	Bearing	Distance	Stationing	Ending
38	S 37°51'41" E	26.34	438774.38	1422233.42
45	S 12°47'04" W	5.78	438764.67	1422281.89
46	S 42°17'04" W	16.28	438743.18	1422347.29
41	S 42°17'04" W	41.23	438728.24	1422333.28
42	S 37°51'41" E	33.18	438716.36	1422283.52
43	S 37°51'41" E	24.38	438698.54	1422253.87
44	S 47°51'04" E	46.28	438774.32	1422253.87
39	S 47°51'04" E	46.28	438774.38	1422233.42

Close Area Distance: 0.0635 Acres
 Close Perimeter: 138.47'±
 Area: 0.0635 Acres, 2767 Sq. Ft.



1:10,000' Horizontal and vertical accuracy, NAD83

OCCUPATION
As Shown On Plat

Plat of Survey
Barron Peck Bennie
& Schlemmer Co., LPA
32330 Madison Rd

Section 28, Town 4, F.R. 2
City of Cincinnati
Hamilton County, Ohio

AYR | G.B. | 1" = 10'

06/04/2020 | 19133

Survey References:
 • Consultation Plat by John J. Duffy & Associates,
 P.B. 434, Pg. 55 of the Hamilton County Recorder's Office
 • Survey by Nordloh & Associates, Inc. Dated August 2013
 • Deeds of record as shown herein.

Monument Legend
 ● Indicates set 5/8" x 3/4" Iron Pin and Cap
 ○ Indicates existing iron Pin, unless noted otherwise



Gerard J. Berding
 Gerard J. Berding, O.S. - 6880
 berding@berding-surveying.com

4-15-2021
 Date



Berding Surveying
 GPS Surveying • 3D Laser Scanning
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 513.834.8747 fax: 513.834.1880
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EXHIBIT B
to Quitclaim Deed
Legal Description

Situated in City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

BEGINNING at an existing iron pin with cap stamped "Nordloh" in the west line of Madison Road and at the most easterly corner of a tract conveyed to BAM Realty Group, LLC in Official Record 14187, Page 1166 of the Hamilton County Recorder's Office;

Thence through the lands of the Grantor, South 37°06'41" East, 35.24 feet to a set iron pin in the proposed right of way;

Thence with the proposed right of way and through the land of the Grantor the following five (5) courses:

1. South 52°44'36" West, 5.78 feet to a set iron pin,
2. South 62°10'16" West, 16.99 feet to a set iron pin,
3. South 62°54'32" West, 41.03 feet to a set iron pin,
4. South 53°03'42" West, 33.30 feet to a set iron pin,
5. North 37°20'54" West, 24.88 feet to a set iron pin in a southeast line of aforesaid BAM Realty Group, LLC;

Thence with a southeast line of said BAM Realty Group, LLC, North 52°39'06" East, 96.36 feet to the **POINT OF BEGINNING**.

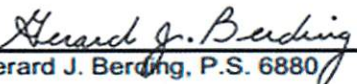
CONTAINING 0.0635 ACRES and being subject to all legal easements and highways of record.

The above described tract being part of a right of way parcel conveyed to the City of Cincinnati in D.B. 3266, Page 159 of the Hamilton County Recorder's Office.

The bearings are based on State Plane Coordinate System Ohio South Zone (NAD83) as Established by ODOT VRS GPS Observations Calibrated to City of Cincinnati Control Monuments.

All iron pins set are 5/8" X 30" rebar with cap stamped "G.J. BERDING SURVEYING, INC".

Prepared by G.J. BERDING SURVEYING, INC. on April 15, 2021. Based on a Plat of Survey prepared by G.J. BERDING SURVEYING, INC. on June 4, 2020, revised on April 15, 2021.


Gerard J. Berding, P.S. 6880

April 15, 2021
Date

