



# Huntsville, Alabama

308 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

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**Meeting Type:** City Council Regular Meeting **Meeting Date:** 3/14/2024

**File ID:** TMP-3770

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**Department:** Administration

**Subject:**

**Type of Action:** Introduction

Introduction of an Ordinance to declare 1.97 acres of real property as surplus and no longer needed for a municipal purpose and authorizing the Mayor to enter into a Donation Agreement conveying the same to the National Children's Advocacy Center.

Ordinance No.

**Finance Information:**

**Account Number:** TBD

**City Cost Amount:** NA

**Total Cost:** NA

**Special Circumstances:**

**Grant Funded:** NA

**Grant Title - CFDA or granting Agency:** NA

**Resolution #:** NA

**Location: (list below)**

**Address:** National Children's Advocacy Center

**District:** District 1 ☐ District 2 ☒ District 3 ☐ District 4 ☐ District 5 ☐

**Additional Comments:**

## ORDINANCE NO. 24-

### *Ordinance to Declare Property as Surplus and Authorizing and Directing its Conveyance*

**WHEREAS**, the City of Huntsville, an Alabama municipal corporation ("City"), is the owner of certain real property situated in Huntsville, Madison County, Alabama, containing 1.97 acres, more or less, as more particularly described as follows in Exhibit "A" attached hereto (the "Subject Property"); and

**WHEREAS**, The National Children's Advocacy Center, Inc. an Alabama non-profit corporation ("NCAC"), which provides prevention, intervention, and treatment services to physically, mentally, and sexually abused children and their families, has requested that the City declare the Subject Property as surplus and offer the same for conveyance for the use, operation, and maintenance of the National Children's Advocacy Center (the "Children's Advocacy Center"); and

**WHEREAS**, the City Council of the City of Huntsville, Alabama, as evidenced by Resolution No. 99-901 and 08-252, expressed its support for NCAC and the Children's Advocacy Center, authorizing and approving the City's lease of the Subject Property to the NCAC for the operation of the Children's Advocacy Center and such related purposes; and

**WHEREAS**, it is the opinion of the Mayor and the City Council of the City of Huntsville, Alabama, that pursuant to §11-47-20 of the Alabama Code (1975), that the Subject Property is no longer used or needed for municipal purposes; and

**WHEREAS**, the Mayor of the City of Huntsville is hereby authorized to enter into that certain Donation Agreement between the City of Huntsville and NCAC, attached hereto as Exhibit "B" (the "Agreement"), pursuant to the terms and conditions contained therein, the Subject Property will be donated to NCAC in exchange for Ten and No/100 Dollars (\$10.00), and subject to the condition that the Subject Property be used, operated, and maintained as the Children's Advocacy Center campus, which provides multi-agency training, educational programs and comprehensive services to victims and their families; and

**WHEREAS**, in the opinion of the Mayor and the City Council of the City of Huntsville, Alabama, said compensation is fair and reasonable compensation for the Subject Property, and that donation of the Subject Property to NCAC for its use, operation, and maintenance as the Children's Advocacy Center, and the services provided by NCAC constitute a legitimate public service and benefits the citizens of the City of Huntsville and surrounding areas; and

**WHEREAS**, it is necessary for the Mayor to execute a statutory warranty deed for the Subject Property to NCAC and such deed shall contain a reversionary clause that the Subject Property shall be used, operated, and maintained for the Children's Advocacy Center and other related purposes, as set forth by and as further described within the Agreement; and

**WHEREAS**, a general and permanent ordinance is necessary to effect declaration of surplus property, for the transfer or sale of said surplus property, and to authorize the Mayor to execute a deed to the grantee of surplus property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, ALABAMA, AS FOLLOWS:**

1. The Subject Property is found and determined not to be needed for public or municipal purposes by the City of Huntsville and is hereby declared as surplus property in accordance with the requirements of §11-47-20 of the *Code of Alabama* (1975); and
2. The Mayor of the City of Huntsville is hereby authorized and directed to execute the Agreement and to execute and deliver all documents required to close said conveyance and donation for and on behalf of the City; and
3. The City Clerk for the City of Huntsville is hereby instructed to publish notice of this Ordinance in accordance with §11-45-8 of the *Code of Alabama* (1975); and
4. A copy of said real estate closing documents, as legally required, will be kept on file in the office of the City Clerk of the City of Huntsville, Alabama; and
5. This ordinance shall become effective upon its approval, adoption, enactment, and publication by posting as set forth in §11-45-8(b) of the *Code of Alabama* (1975).

**ADOPTED** this the \_\_\_\_ day of \_\_\_\_, 2024.

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President of the City Council  
of the City of Huntsville, Alabama

**APPROVED** this the \_\_\_\_ day of \_\_\_\_, 2024.

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Mayor of the City of Huntsville,  
Alabama

**EXHIBIT "A"**  
**(Legal Description of Subject Property)**

The following described property located in Madison County, Alabama:

Lot 1, Block 320 according to the Quigley Map as recorded in the Office of the Judge of Probate of Madison County, Alabama; and

Lots 6-11 Moores Field Addition as recorded in Plat Book 1, Page 172 in the Office of the Judge of Probate of Madison County, Alabama.

Such property also described as:

Begin at the Northwest corner of Lot 1 Block 320 of the Quigley Map said Point is a Smith capped pin located at Alabama State Plane Coordinates East Zone North: 1542657.11 East: 430692.8435; thence run North 59 degrees 20 minutes 32 seconds East a distance of 597.52 feet; thence run South 32 degrees 12 minutes 04 seconds East a distance of 143.74 feet to a McElroy capped pin found at the Northeast corner of Lot 11 of Moore's Field Addition as recorded in Plat Book 1 Page 172 at the Madison County Courthouse; thence run along the South line of Moore's Field Addition and Quigley Map South 59 degrees 20 minutes 32 seconds West a distance of 597.52 feet to a Smith capped pin on the East margin of Dallas Street; thence run along said margin North 32 degrees 12 minutes 04 seconds West a distance of 143.74 feet to the Point of Beginning containing 1.97 acres more or less. This tract previously described as Eastside Community Center and Facilities Maintenance Building located at Dallas and Howe.

**EXHIBIT "B"**  
**(Donation Agreement)**

*[Attach copy of Donation Agreement between the City of Huntsville and The National Children's Advocacy Center, Inc.]*

STATE OF ALABAMA

COUNTY OF MADISON

### **DONATION AGREEMENT**

THIS DONATION AGREEMENT (the "Agreement") is made and entered into by, between and among the **CITY OF HUNTSVILLE**, an Alabama municipal corporation (the "City"), and **THE NATIONAL CHILDREN'S ADVOCACY CENTER, INC.**, an Alabama non-profit corporation, its successors and assigns ("NCAC"), effective as of this                      day of                      , 2024 (the "Effective Date").

WHEREAS, NCAC is a nonprofit agency providing prevention, intervention, and treatment services to physically, mentally, and sexually abused children and their family centered around a child-focused team approach. Since opening the first Children's Advocacy Center in 1985, NCAC has become a leader in the field of prevention and intervention of child abuse.

WHEREAS, NCAC operates the National Children's Advocacy Center ("Children's Advocacy Center"), which offers a comprehensive approach to serving abused children and their families through professional and volunteer programs which emphasize the coordination of investigation and intervention services that bring together professionals and governmental agencies as a multi-disciplinary team to create a child-focused approach to child abuse cases.

WHEREAS, the City is the fee simple owner of that certain parcel of real property located in Huntsville, Madison County, Alabama, lying at the intersection of Dallas and Howe Streets, comprised of approximately 1.97 acres, more or less, and as more particularly described in Exhibit "A" attached hereto (the "Property").

WHEREAS, the City Council of the City of Huntsville, Alabama, as evidenced by Resolutions No. 99-901 and 08-252, expressed its support for NCAC by leasing the Property to NCAC for the purpose of construction and operation of the Children's Advocacy Center.

WHEREAS, NCAC, a qualified charitable organization under § 501(c)(3) of the Internal Revenue Code, was created solely to operate, maintain, contribute, perform, and to carry out the purposes and functions of the Children's Advocacy Center, and accordingly, has been authorized to receive, manage, and maintain funds and real property.

WHEREAS, the City has determined that the Children's Advocacy Center and the services provided by NCAC constitute a legitimate public purpose, by providing professional and volunteer investigative, intervention, and rehabilitative services to child abuse victims and their families.

WHEREAS, the City desires to donate the Property to NCAC with the desire that the NCAC operate, use, and maintain the Property as a training and operations facility for the Children's Advocacy Center, and any uses related thereto.

WHEREAS, the NCAC desires to accept donation of the Property from the City to operate, use, and maintain the Property as the Children's Advocacy Center upon the terms and conditions

set forth herein.

NOW THEREFORE, in consideration of the premises hereof which are incorporated herein by reference, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do agree as follows:

1. Agreement to Convey and Donate. The City agrees to convey and donate to the NCAC, and NCAC agrees to acquire and accept from the City, the Property, consisting of approximately 1.97 acres more or less, as described in Exhibit "A" attached hereto, together with any and all structures, fixtures and other improvements thereon and all rights, easements, interests, privileges, tenements and hereditaments appurtenant thereto, subject to any existing utility and drainage easements, which shall be reserved unto the City.

2. Purchase Price. The purchase price for the Property shall be Ten and NO/100 Dollars (\$10.00) (the "Purchase Price"). The Purchase Price shall be paid to the City by the NCAC in cash or immediately available funds at the closing and consummation of the transactions contemplated by this Agreement ("Closing").

3. Title Commitment and Survey. The City shall provide NCAC with a title commitment from Lanier Ford Shaver & Payne, P.C. ("Closing Agent") to issue an owner's policy of title insurance to be issued in accordance with commercially reasonable standards and insuring NCAC with good and marketable and insurable fee simple title to the Property, free and clear of all liens, encumbrances, tenancies, covenants, conditions, restrictions, easements and other matters of record affecting title except for the Permitted Exceptions and subject to Section 8 set forth below. "Permitted Exceptions" shall mean: (i) current city, state and county ad valorem taxes not yet due and payable; (ii) easements currently existing for the installation or maintenance of public utilities servicing the Property; (iii) easements, restrictions, and setback lines of record; (iv) rights of way for public roads; (v) subdivision regulations and zoning ordinances of applicable governmental entities; and (vi) such other matters, if any, as may be acceptable to NCAC. The City shall remove all monetary liens, if any, prior to Closing at the City's sole cost and expense. NCAC, at its expense, may obtain a boundary survey of the Property from a licensed public land surveyor.

4. Closing Conditions. The City's obligation to convey the Property to NCAC is contingent upon the following conditions being satisfied prior to Closing (the "Closing Conditions"):

(a) Declaration of Surplus. Declaration of the Property as "surplus" by the City Council of the City of Huntsville.

(b) Approval by City Council. Approval of this Agreement by the City Council of the City of Huntsville.

5. Closing. Closing shall occur on or within ninety (90) days following the satisfaction of the Closing Conditions, or at such other date and time as may be mutually agreed upon by the parties ("Closing Date"). The Closing shall occur at the offices of Closing Agent. The parties may deliver any documents or closing funds as required herein on or before the Closing Date, such that neither party will be required to be physically present at Closing.

(a) At Closing, the parties shall deliver the following items to Closing Agent,

properly executed and notarized and in form and substance acceptable to Closing Agent:

(i) A statutory warranty deed conveying a good and marketable fee simple title to the Property from the City to NCAC subject only to the Permitted Exceptions and the Reversionary Interest and Historic Preservation Requirements contained in Section 8 below (the "Deed").

(ii) Recorded or recordable releases terminating and releasing all monetary liens affecting the Property, if any.

(iii) An owner's affidavit and any other documents, certificates and agreements that the title company and/or Closing Agent may reasonably require to issue an updated title commitment or owner's title policy.

(iv) All other documents reasonably requested by the Closing Agent to carry out the transactions contemplated by this Agreement, including, but not limited to, (A) an IRS §1445 Certificate, (B) a settlement statement, and (C) formation documents, certifications, resolutions, brokers affidavits and other reasonable and customary documents establishing that the parties are duly authorized and empowered to enter into this Agreement and perform its obligations hereunder.

6. Property Taxes. Ad valorem taxes are currently not owed on the Property and it is currently being assessed as exempt. However, any ad valorem or property taxes on the Property shall be prorated as of the Closing Date, such that the City will be responsible for all levied and pending ad valorem taxes prior to and through the Closing Date and NCAC will be responsible for all levied and pending ad valorem taxes after the Closing Date.

7. Closing Costs. All closing costs, including any title examination fee, title insurance premium, all deed, transfer, and mortgage taxes, and any and all recording costs shall be paid by NCAC ("Closing Costs"). Provided, Closing Costs shall not include the cost of preparing the Deed, which shall be paid by the City. In addition, each party shall pay for its own attorney's fees incurred in connection with the transactions contemplated by this Agreement.

8. Reversionary Interest. The Property shall be conveyed subject to a reversionary clause in favor of the City, ensuring that the Property shall be used by NCAC, its successors and assigns, primarily for the use, operation, and maintenance of the Children's Advocacy Center, associated educational purposes, and other related activities. In the event the Property ceases to be primarily used, operated and maintained for such purposes, the City shall notify NCAC in writing of such violation, which notice shall identify NCAC's violation of this Agreement with reasonable specificity, whereupon NCAC shall have a period of ninety (90) days to (i) cure such violation, or (ii) execute a deed for the Property in favor of the City for the purchase price of Ten and No/100 Dollars (\$10.00) (the "Reversionary Interest"). Similarly, in the event NCAC ceases to be primarily used, operated, or maintained for such purposes, or NCAC desires to sell the Property to a third party to be used, operated or maintained for unrelated purposes, then NCAC shall notify the City of its desire to either cease such use or to sell the Property. Upon receipt of such notice, the City shall release the Reversionary Interest upon receipt of the fair market value of the Property paid by NCAC (the "Reversionary Interest Purchase Price"), which value shall be determined by an appraiser selected by NCAC and agreed upon by the City, whose approval shall not be



unreasonably withheld, conditioned, or delayed. Upon the delivery of the Reversionary Interest Purchase Price, the City shall release the Reversionary Interest by delivering to NCAC a termination agreement in recordable form, to be recorded in the Office of the Judge of Probate of Madison County, Alabama. The provisions of this paragraph shall be contained in the Deed and shall survive Closing.

9. Termination of Lease. The parties previously entered into that certain Ground Lease, dated October 14, 1999, as amended by that certain First Amendment to Ground Lease, dated March 13, 2008, and as evidenced by that certain Ratification of Ground Lease, recorded as Document Number 20080514000313720, and that certain Memorandum of Ground Lease, recorded as Document Number 20080514000313730 in the Probate Records of Madison County, Alabama (collectively, the "Lease") for the lease of the Property. At Closing, the parties agree to formally terminate the Lease and agree to execute and record a termination of the Ratification of Ground Lease and/or Memorandum of Ground Lease in the Probate Records of Madison County, Alabama.

10. Governing Law. The terms and conditions of this Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Alabama without regard to its conflict of law provisions.

Entire Agreement. This Agreement contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in this Agreement has been or is being relied upon by either party. Each party has relied upon its own examination of this Agreement and the provisions, warranties, representations and covenants expressly contained herein.

11. Successors and Assigns. All rights and obligations of the parties under this Agreement shall inure the benefit of and be binding upon all successors and assigns of each party.

12. Notice. All notices shall be in writing and may be delivered by any of the following methods: hand delivery, Certified United States Mail, nationally recognized courier or delivery service, or electronic mail (e-mail) or pdf transmission. Notices shall be deemed received, (i) if delivered by hand, on the date of delivery, (ii) if sent by U.S. Mail or overnight delivery service, on the date the same is deposited with the applicable carrier, or (iii) if delivered by email or pdf transmission on the date the transmission is sent. Notices shall be addressed as follows:

If to The City:           City of Huntsville  
                                  Attn: John Hamilton  
                                  308 Fountain Circle  
                                  Huntsville, Alabama 35801  
                                  Ph: (256) 427-5009  
                                  Email: [john.hamilton@huntsvilleal.gov](mailto:john.hamilton@huntsvilleal.gov)

With a copy to:           Samuel H. Givhan & Katie Beasley  
                                  Lanier Ford  
                                  2101 West Clinton Ave., Suite 102  
                                  Huntsville, Alabama 35805  
                                  Ph: (256)535-1100  
                                  Email: [SHG@lanierford.com](mailto:SHG@lanierford.com)  
                                      [KAB@lanierford.com](mailto:KAB@lanierford.com)

If to NCAC: The National Children's Advocacy Center, Inc.  
Attn: Chris Newlin  
210 Pratt Avenue NE  
Huntsville, Alabama 35801  
Ph: 256-327-3785  
Email: [cnewlin@nationalcac.org](mailto:cnewlin@nationalcac.org)

With a copy to: Butler Snow LLP  
Attn: Allie C. Tucker  
200 West Side Square, Suite 100  
Huntsville, Alabama 35801  
Ph: 256-936-9611  
Email: [allie.tucker@butlersnow.com](mailto:allie.tucker@butlersnow.com)

13. Survival. Any terms and covenants contained in this Agreement which require the performance of any party after the Closing shall survive the closing and delivery of the Deed.

14. Amendment. This Agreement may only be amended by a written instrument executed by both parties.

15. Assignment. NCAC may not assign its rights and obligations hereunder without prior written approval by the City, which approval may be withheld in the City's sole and absolute discretion.

16. Effective Date. The Effective Date shall mean the date this Agreement has been executed by the City.

17. Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which constitute one agreement between the parties. Documents executed, scanned and transmitted electronically, and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures. Notwithstanding the preceding sentence, the parties agree that they will transmit their original signature pages to the Closing Agent promptly after execution.

18. Real Estate Commissions. The City and the NCAC each represent and warrant to one another that they, respectively, have not consulted with any broker or finder in connection herewith and no broker, finder or other agent is entitled to any fee or commission with respect to or by reason of the transactions contemplated by this Agreement. The City and NCAC each agree to indemnify and hold the other harmless from and against any and all loss, cost, damage, claim, expense (including attorneys' fees) incurred by or assessed against the other as a result of a breach of the respective foregoing covenants and representations made by each of them.

19. Attorneys' Fees. If any legal proceeding is commenced related to this Agreement, the prevailing party in such legal proceeding shall be entitled to recover its reasonable attorneys' fees, court costs and litigation expenses from the non-prevailing party therein.

20. Further Assurances. At Closing Agent's request, the parties shall execute and deliver any additional documents reasonably required to carry out the transactions contemplated by this

Agreement or to correct any scrivener's error or omissions contained in this Agreement or any document executed pursuant hereto or in connection with the transactions contemplated herein.

21. Counsel Acknowledgment. The parties acknowledge that the City's counsel, Samuel H. Givhan and Katherine Amos Beasley (collectively, "Counsel") prepared this Agreement on behalf of and in the course of their representation of the City and, for purposes of this transaction, Counsel represents the City's interest and no other. All conflicts of interest in connection with Counsel's representation of the City, if any, are hereby waived.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the dates set forth below.

*/Signatures and acknowledgments appearing on Following Pages./*

*[The City's Signature Page to the Donation Agreement.]*

**CITY OF HUNTSVILLE**, an Alabama municipal  
corporation

By: \_\_\_\_\_  
Tommy Battle, Mayor

ATTESTED TO:

By: \_\_\_\_\_  
Shaundrika Edwards, City Clerk

Date: \_\_\_\_\_

*[NCAC's Signature Page to the Donation Agreement.]*

**THE NATIONAL CHILDREN'S ADVOCACY  
CENTER, INC.**, an Alabama non-profit  
corporation

By:   
Chris Newlin, Executive Director

WITNESSED:

By: Robin Draper  
Name: Robin Draper

Date: 3-8-24

**Exhibit "A"**  
**(Legal Description of the Property)**

The following described property located in Madison County, Alabama:

Lot 1, Block 320 according to the Quigley Map as recorded in the Office of the Judge of Probate of Madison County, Alabama; and

Lots 6-11, Moores Field Addition as recorded in Plat Book 1, Page 172 in the Office of the Judge of Probate of Madison County, Alabama.

Such property also described as:

Begin at the Northwest corner of Lot 1 Block 320 of the Quigley Map said Point is a Smith capped pin located at Alabama State Plane Coordinates East Zone North: 1542657.11 East: 430692.8435; thence run North 59 degrees 20 minutes 32 seconds East a distance of 597.52 feet; thence run South 32 degrees 12 minutes 04 seconds East a distance of 143.74 feet to a McElroy capped pin found at the Northeast corner of Lot 11 of Moore's Field Addition as recorded in Plat Book 1 Page 172 at the Madison County Courthouse; thence run along the South line of Moore's Field Addition and Quigley Map South 59 degrees 20 minutes 32 seconds West a distance of 597.52 feet to a Smith capped pin on the East margin of Dallas Street; thence run along said margin North 32 degrees 12 minutes 04 seconds West a distance of 143.74 feet to the Point of Beginning containing 1.97 acres more or less. This tract previously described as Eastside Community Center and Facilities Maintenance Building located at Dallas and Howe.