

Department: City Attorney

Subject:

Type of Action: Approval/Action

Ordinance authorizing the vacation of Utility and Drainage Easements, Lot 1, Novare Madison Mixed Use Project, Lime Quarry Road. (Madison Apartment Residences, LLC)

Ordinance No.

Finance Information:

Account Number: Click or tap here to enter text.

City Cost Amount: \$

Total Cost: \$

Special Circumstances:

Grant Funded: \$

Grant Title – CFDA or granting Agency: Click or tap here to enter text.

Resolution #: Click or tap here to enter text.

Location:

Address:

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

Additional Comments:

ORDINANCE NO. 22-_____

BE IT ORDAINED by the City Council of the City of Huntsville, Alabama, as follows:

Section 1. The City Council of the City of Huntsville, Alabama, finds that an application has been presented to the City of Huntsville requesting the vacation of utility and drainage easements; that the applicant has represented to the City of Huntsville that **Madison Apartment Residences, LLC**, is the owner of the property across which said easements lie; that said easements, or the portions being vacated, are not presently used and are no longer needed for a public or municipal purpose.

Section 2. Pursuant to the findings in Section 1 hereinabove, the Mayor of the City of Huntsville, Alabama, is hereby authorized, requested and directed to execute a quitclaim deed vacating the easements hereinafter described, said deed being substantially in words and figures as follows, to-wit:

This Instrument prepared by:
Benjamin W. Hutton
Bradley Arant Boult Cummings LLP
200 Clinton Avenue West, Suite 900
Huntsville, Alabama 35801
(256) 517-5100

The following information is offered in lieu of submitting an RT-1 Real Estate Sales Validation Form pursuant to Section 40-22-1 of the Code of Alabama (1975):

RECORDING USE ONLY

Grantor's Name/Mailing Address:
City of Huntsville, Alabama
308 Fountain Circle
P.O. Box 308
Huntsville, Alabama 35801

Grantee's Name/Mailing Address:
Madison Apartment Residences, LLC
1545 Peachtree Street,
Suite 260
Atlanta, Georgia 30309

Property address: n/a
Date of sale: _____, 2022
Purchase price: n/a

The purchase price or actual value claimed in this instrument can be verified in the following documentary evidence:

☐ Bill of Sale ☐ Sales Contract ☐ Closing Statement ☐ Appraisal ☒ Other

QUITCLAIM DEED FOR VACATION OF EASEMENT

WHEREAS, the **City of Huntsville, Alabama** (the "Grantor") is the holder of certain utility and drainage easements as shown in Book 861, Page 155 and Book 994, Page 853, recorded in the Office of the Judge of Probate of Madison County, portions of which are more particularly described on Exhibit A attached hereto (collectively, the "Easement Property"); and

WHEREAS, the Grantor has agreed to vacate the Easement Property and to convey all of its right, title and interest in and to the Easement Property to **Madison Apartment Residences, LLC**, a Delaware limited liability company (the "Grantee").

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, that the Grantor, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, does hereby remise, release, and forever quitclaim to the Grantee, all its right, title, interest and claim in and to the Easement Property.

Grantor attests, to the best of its knowledge and belief, that the information submitted in the legend at the beginning of this Deed in lieu of the RT-1 Real Estate Sales Validation Form is true and accurate, and Grantor understands that any false statements contained in such information may result in the imposition of the penalty indicated in Code of Alabama 1975 § 40-22-1(h).

TO HAVE AND TO HOLD the Easement Property unto the Grantee forever.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on or as of the 14th day of April, 2022.

CITY OF HUNTSVILLE, ALABAMA

By: _____
Tommy Battle, Mayor

Attest: _____
Ken Benion, Clerk Treasurer

STATE OF ALABAMA)
 :
COUNTY OF MADISON)

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Tommy Battle and Ken Benion, whose names as Mayor and City Clerk-Treasurer, respectively, of The City of Huntsville, Alabama, a municipal corporation are signed to the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same for and as the act of said corporation on the day the same bears day.

Given under my hand and official seal this the 14th day of April, 2022.

Notary Public

[NOTARIAL SEAL]

My commission expires: _____

EXHIBIT A

Property Description

STATE OF ALABAMA
COUNTY OF MADISON

TRACT 1

A TRACT OF LAND LYING IN THE EAST HALF OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, CITY OF MADISON, MADISON COUNTY, ALABAMA AND ALSO LYING IN LOT 1, NOVARE MADISON MIXED USE, AS RECORDED IN DOCUMENT NO. 2021-00004689 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 5/8" CAPPED REBAR (SCHOEL CA #003) AT THE SOUTHEAST CORNER OF SAID LOT 1, ALSO BEING THE SOUTHWEST CORNER OF LOT 2, AND BEING FURTHER DESCRIBED AS LYING ON THE NORTH RIGHT-OF-WAY MARGIN OF LIME QUARRY ROAD (RIGHT-OF-WAY WIDTH VARIES); THENCE, ALONG COMMON BOUNDARY OF SAID LOT 1 AND 2 AND EXTENSION THEREOF, NORTH 01 DEGREES 16 MINUTES 18 SECONDS EAST, 207.46 FEET TO THE NORTH LINE OF A UTILITY AND DRAINAGE EASEMENT AS RECORDED IN DEED BOOK 861, PAGE 155 (THIS DEED IS IN FAVOR OF THE CITY OF HUNTSVILLE) AND DEED BOOK 994, PAGE 853 (THIS DEED IS IN FAVOR OF THE CITY OF MADISON) IN SAID OFFICE OF THE JUDGE OF PROBATE; THENCE ALONG THE NORTH LINE OF SAID UTILITY AND DRAINAGE EASEMENT, SOUTH 76 DEGREES 34 MINUTES 40 SECONDS WEST, 44.34 FEET TO A POINT; THENCE CONTINUE ALONG SAID EASEMENT, SOUTH 05 DEGREES 47 MINUTES 03 SECONDS WEST, 128.11 FEET; THENCE CONTINUE ALONG SAID EASEMENT, SOUTH 78 DEGREES 00 MINUTES 39 SECONDS WEST, 84.42 FEET TO THE POINT OF BEGINNING;

THENCE FROM THE POINT OF BEGINNING AND LEAVING THE NORTH LINE OF SAID UTILITY AND DRAINAGE EASEMENT, SOUTH 01 DEGREES 51 MINUTES 07 SECONDS WEST, 6.08 FEET TO A POINT; THENCE NORTH 88 DEGREE 08 MINUTES 53 SECONDS WEST, 24.68 FEET TO A POINT ON THE NORTH LINE OF SAID UTILITY AND DRAINAGE EASEMENT; THENCE CONTINUE ALONG SAID EASEMENT; THENCE, NORTH 78 DEGREES 00 MINUTES 39 SECONDS EAST, 25.42 FEET TO THE POINT OF BEGINNING CONTAINING (75 SQUARE FEET) MORE OR LESS.

TRACT 2

A TRACT OF LAND LYING IN THE EAST HALF OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 2 WEST OF THE HUNTSVILLE MERIDIAN, CITY OF MADISON, MADISON COUNTY, ALABAMA AND ALSO LYING IN LOT 1, NOVARE MADISON MIXED USE, AS RECORDED IN DOCUMENT NO. 2021-00004689 IN THE OFFICE OF THE JUDGE OF PROBATE, MADISON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 5/8" CAPPED REBAR (SCHOEL CA #003) AT THE SOUTHEAST CORNER OF SAID LOT 1, ALSO BEING THE SOUTHWEST CORNER OF LOT 2, AND BEING FURTHER DESCRIBED AS LYING ON THE NORTH RIGHT-OF-WAY MARGIN OF LIME QUARRY ROAD (RIGHT-OF-WAY WIDTH VARIES); THENCE, ALONG COMMON BOUNDARY OF SAID LOT 1 AND 2 AND EXTENSION THEREOF, NORTH 01 DEGREES 16 MINUTES 18 SECONDS EAST, 207.46 FEET TO THE NORTH LINE OF A UTILITY AND DRAINAGE EASEMENT AS RECORDED IN DEED BOOK 861, PAGE 155 (THIS DEED IS IN FAVOR OF THE CITY OF HUNTSVILLE) AND DEED BOOK 994, PAGE 853 (THIS DEED IS IN FAVOR OF THE CITY OF MADISON) IN SAID OFFICE OF THE JUDGE OF PROBATE; THENCE ALONG THE NORTH LINE OF SAID UTILITY AND DRAINAGE EASEMENT, SOUTH 76 DEGREES 34 MINUTES 40 SECONDS WEST, 44.34 FEET TO A POINT; THENCE CONTINUE ALONG SAID EASEMENT, SOUTH 05 DEGREES 47 MINUTES 03 SECONDS WEST, 128.11 FEET; THENCE CONTINUE ALONG SAID EASEMENT, SOUTH 78 DEGREES 00 MINUTES 39 SECONDS WEST, 120.00 FEET TO THE POINT OF BEGINNING;

THENCE FROM THE POINT OF BEGINNING, AND LEAVING THE NORTH LINE OF SAID THE UTILITY AND DRAINAGE EASEMENT, SOUTH 01 DEGREES 51 MINUTES 07 SECONDS WEST, 11.57 FEET TO A POINT; THENCE NORTH 88 DEGREE 08 MINUTES 53 SECONDS WEST, 26.31 FEET TO A POINT ON THE NORTHWEST LINE OF SAID UTILITY AND DRAINAGE EASEMENT; THENCE ALONG SAID EASEMENT, NORTH 35 DEGREE 24 MINUTES 48 SECONDS EAST, 7.30 FEET TO A POINT; THENCE CONTINUE ALONG SAID EASEMENT, NORTH 78 DEGREES 00 MINUTES 39 SECONDS EAST, 22.94 FEET TO THE POINT OF BEGINNING CONTAINING (209 SQUARE FEET) MORE OR LESS.

Ordinance No. 22-_____ (Cont.)

ADOPTED this the 14th day of April, 2022.

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

APPROVED this the 14th day of April, 2022.

Mayor of the City of
Huntsville, Alabama