



# Huntsville, Alabama

308 Fountain Circle  
Huntsville, AL 35801

## Cover Memo

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**Meeting Type:** City Council Regular Meeting **Meeting Date:** 4/13/2023

**File ID:** TMP-2776

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**Department:** Urban Development

**Subject:**

**Type of Action:** Approval/Action

Resolution authorizing the Mayor to enter into a Real Estate Agreement between the City of Huntsville and Blue Origin Alabama, LLC, for the sale of approximately 14.83 acres of property located in Cummings Research Park.

**Type of Document:** Resolution 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:** 14.83 acres of property located in Cummings Research Park.

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

**Additional Comments:**

The price per acre for the property is \$96,250.00 for a total purchase price by Blue Origin Alabama, LLC, of \$1,427,378.50.

**RESOLUTION NO. 23-\_\_\_\_\_**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby, authorized to enter into the Real Estate Agreement, by and between the City of Huntsville, an Alabama municipal corporation, and Blue Origin Alabama, LLC an Alabama limited liability company, which said agreement is substantially in words and figures the same as that certain document attached hereto and identified as “Real Estate Agreement between the City of Huntsville and Blue Origin Alabama, LLC,” consisting of nineteen (19) pages including exhibits, and the date of the 13th day of April, 2023, appearing on the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document after being signed by the Mayor, shall be permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Mayor be and he is hereby authorized to execute and enter into the Real Estate Agreement, on behalf of the City of Huntsville, with such changes as the Mayor deems desirable and necessary, including the authority to execute, perform, amend, and assign said document and/or the authority to execute all such closing documents relevant or relating to effect and complete the real estate transaction and land transfer contemplated therein.

**ADOPTED** this the 13th day of April, 2023.

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

**APPROVED** this the 13th day of April, 2023.

\_\_\_\_\_  
Mayor of the City of Huntsville, Alabama

STATE OF ALABAMA

COUNTY OF MADISON

**REAL ESTATE AGREEMENT**

This Real Estate Agreement (the "Agreement") is entered into on this the 13<sup>th</sup> day of April, 2023 (the "Effective Date"), by and between the **City of Huntsville**, an Alabama municipal corporation (the "City" or "Seller"), and **Blue Origin Alabama, LLC**, an Alabama limited liability company, its successors and assigns ("Purchaser").

WITNESSETH:

WHEREAS, Seller owns property located in Huntsville, Madison County, Alabama located within Cummings Research Park ("CRP"), consisting of approximately 14.83 acres, more or less, as more particularly described in Exhibit "A" attached hereto and incorporated herein and as depicted in that preliminary boundary survey attached hereto and incorporated as Exhibit "B" (the "Property");  
and

For in consideration of the sum of the recitals, which are incorporated herein by reference, and the promises and mutual covenants hereinafter set forth, and for other and valuable consideration hereinafter provided, the parties do hereby agree as follows, to wit:

1. **Agreement to Buy and Sell.** Purchaser agrees to purchase from Seller and Seller agrees to sell to Purchaser the Property, as described in Exhibit "A" and depicted in Exhibit "B" hereto for the construction and installation of additional parking facilities necessary to accommodate the planned expansion of Purchaser's adjacent engine manufacturing facility in accordance with the terms and conditions of this Agreement. Seller, at Seller's expense shall plat the Property as a single subdivision lot in accordance with the City's subdivision regulations (the "Plat"). The legal description of the Property for purposes of this Agreement and the conveyance to Purchaser shall be the Property as described in, and with reference made to the recorded Plat.

2. **Due Diligence Period.**

A. **Inspection of Property.** Purchaser shall have one hundred eighty (180) days from the Effective Date to perform such investigations, examinations, tests and inspections as Purchaser shall deem necessary or desirable to determine whether the Property is suitable and satisfactory for Purchaser's intended use (the "Due Diligence Period"). Purchaser, at its option and in its sole discretion, may extend the Due Diligence Period for an additional sixty (60) days by delivering written notice to Seller prior to the expiration of the Due Diligence Period ("Extension"). During the Due Diligence Period, Purchaser and Purchaser's agents, employees, Contractors, representatives and other designees (collectively the "Purchaser's Designees") shall have the right to enter the Property for the purposes of inspecting the Property, conducting soil tests, conducting surveys, mechanical and structural engineering tests, and conducting any other investigations, examinations, tests and inspections as Purchaser may reasonably require to assess the condition of the Property; provided however, that (i) any activities by or on behalf of

Purchaser, including, without limitation, the entry by Purchaser or Purchaser's Designees with respect to the Property ("Purchaser's Activities") shall not damage the Property in any manner whatsoever, and (ii) in the event the Property is altered or disturbed in any manner in connection with any of Purchaser's Activities, Purchaser shall immediately return the Property to the condition existing prior to Purchaser's Activities. Purchaser may also use the Due Diligence Period to determine whether any amendment(s) that it may consider necessary to any agreements related to the project, further detailed and defined in section 4.C.iv herein, including, but not limited to tax abatement agreement(s), related to adding the Property to the engine manufacturing facility, if such amendments are permitted under Alabama law. In the event that Purchaser shall determine, in its sole and absolute discretion, that the Property is not suitable and satisfactory to Purchaser, Purchaser shall have the right to terminate the Agreement by delivering written notice to the Seller prior to the expiration of the Due Diligence Period or Extension. In the event Purchaser terminates this Agreement during the Due Diligence Period or Extension, all Earnest Money, if any, shall be promptly returned to Purchaser, all rights and obligations of the parties under this Agreement shall expire, and this Agreement shall become null and void.

B. Objections to Title. Purchaser shall have until the expiration of the Due Diligence Period in which to examine title to the Property and in which to give Seller written notice of objections which render Seller's title less than good and marketable fee simple title. Thereafter, Purchaser shall have until the expiration of the Due Diligence Period to reexamine title to the Property and in which to give Seller written notice of any additional objections first disclosed by such reexamination. Purchaser shall notify Seller of any defect or objections in writing within ten (10) days following Purchaser's receipt or notice of such title defect. Seller, at Seller's option, shall have a reasonable time (but not in excess of thirty (30) days following the receipt of Purchaser's written notice of objections) within which to satisfy all objections specified in Purchaser's initial notice of title objections, and a reasonable time prior to Closing Date (as defined below) in which to satisfy all valid objections specified in any subsequent notice by Purchaser of title objections. If the valid defects or objections are not timely cured, then, at the option of Purchaser, Purchaser may: (i) waive such defects and proceed to close; or (ii) cancel this Agreement by notice in writing to Seller, and any money paid to Seller pursuant to this Agreement shall be refunded to Purchaser within fifteen (15) business days of such notice and each of the parties shall be released from further liability to the other.

C. Option to Close Prior to Expiration of Due Diligence Period. Notwithstanding anything to the contrary, Purchaser may, at any time prior to the expiration of the Due Diligence Period, upon written notice to Seller, waive its right to terminate this Agreement under this Section 2, and proceed to Closing in accordance with Section 4.

3. Purchase Price. In consideration of the City's agreement to sell the Property to Purchaser, Purchaser agrees to pay to the City the sum of Ninety-Six Thousand Two Hundred Fifty and No/100 Dollars (\$96,250.00) per acre of the Property ("Acreage Price"), for a total purchase price of One Million Four Hundred Twenty-Seven Thousand Three Hundred Seventy-Eight and 50/100 Dollars (\$1,427,378.50) ("Purchase Price"). The Purchase Price shall be paid by Purchaser to Seller at Closing in cash or other immediately available funds. Notwithstanding the foregoing, if the final survey reveals the total acreage to be different than 14.83 acres, then the Purchase Price shall be adjusted and shall be determined by multiplying the final Plat acreage by the Acreage Price.

4. **Conveyance of the Property.**

A. **Statutory Warranty Deed.** Seller agrees to convey said Property and will furnish to Purchaser a good and merchantable title by a properly executed statutory warranty deed substantially in the form attached hereto as Exhibit "C" free from any and all encumbrances, subject only to easements, restrictions set out in the attached deed, rights-of-way of record, ad valorem taxes not yet due and payable, City Ordinances regarding CRP, and the protective Probate of Madison County (the "Deed"). Purchaser understands said restrictions are binding on the property and may be amended from time to time and Purchaser agrees that Purchaser shall comply with said restrictions as amended. If, subsequent to the Effective Date, Purchaser determines to finance this venture, through Industrial Development Bonds, or to apply for an industrial development grant, then upon Purchaser's request said Deed shall be delivered in the name of the Industrial Development Board of the City of Huntsville, an Alabama public corporation, as Grantee.

B. **Closing.** The closing of this transaction ("Closing") shall occur upon the earlier to occur of: (i) ten (10) business days after receiving written notice from Purchaser of its desire to close, (ii) within thirty (30) days following the expiration of the Due Diligence Period, or (iii) at such date and time as is mutually agreed upon by the parties ("Closing Date"). Purchaser, at its option, may extend the Closing Date for an additional thirty (30) days by providing written notice to Seller of said extension prior to the Closing Date ("Extension"). Closing shall occur at the offices of Wilmer & Lee, P.A., located at 100 Washington Street, Suite 200, Huntsville, Alabama 35801, which shall serve as both closing and title agent ("Closing Agent"). The parties may deliver all documents and deposit all closing funds with Closing Agent on or prior to Closing Date, such that neither party shall be required to be physically present at Closing.

C. **Miscellaneous Closing Provisions.**

i. Seller shall deliver to Closing Agent a customary lien and possession affidavit. Said affidavit is to contain no indemnity provisions.

ii. Purchaser shall pay all closing costs and fees, including all transfer and conveyance taxes, any title insurance premium, loan costs, title examination fees, except as otherwise provided by this Agreement. Each party shall pay its own attorney's fees in connection with Closing.

iii. Seller shall prepare and provide Purchaser with the properly prepared Deed upon Closing, at the sole cost of Seller.

iv. All ad valorem taxes levied against the Property for the current tax year shall be prorated between the parties. Seller shall be responsible for any unpaid ad valorem taxes levied against the Property for any prior tax years, if any. If the amount of the ad valorem tax for the current tax year is not known with reasonable certainty as of the date of Closing, the same shall be estimated based on the best available information, if any. Given the nature of this purchase is in the course of Blue Origin Alabama acquiring, developing, constructing, installing, equipping and subsequently operating and expanding a new rocket engine manufacturing facility and related improvements on the Real Estate at 1100 Explorer Blvd, Huntsville Alabama (such acquisition, development, construction, installation, and equipping, operation, and subsequent expansion are

collectively referred to herein as "Project Eagle"), Purchaser shall be entitled to utilize any and all applicable state or local incentive agreements which may abate particular portions of ad valorem taxes levied against the Property, if such incentives and/or abatements are available to Purchaser and can be applied to the Property.

v. Purchaser, at its option, may obtain an owner's title insurance policy from Closing Agent for the Property, with the owner's title policy premium, if any, to be paid by Purchaser at Closing.

vi. Purchaser shall be required to prepare and furnish all other documents reasonably requested by Closing Agent or Seller necessary to carry out the transaction contemplated by this Agreement, including but not limited to, mandatory IRS or tax disclosures, any corporate or company documents, certifications or resolutions, broker's affidavits and other customary documents establishing Purchaser is duly authorized and empowered to enter into this Agreement and/or to perform its obligations hereunder.

## **5. Construction.**

A. Option to Repurchase. Purchaser agrees to obtain a building permit, complete all site preparation, and to commence the actual physical construction of the facility thereon, as approved by the Architectural Control Committee, within twelve (12) months following the Closing, and to continue without interruption, Force Majeure Events (hereinafter defined) excepted, the construction of the said facility until completed according to approved plans and specifications. As used herein, the term "Force Majeure Events" shall mean any events or occurrences whatsoever which prevent or delay Purchaser's performance hereunder and which are beyond the reasonable control of Purchaser, including without limitation, an act of God, war, riot, civil commotion, or other disturbance, sovereign conduct, national emergencies, acts of civil or military authority, strike or other labor difficulties, fire, flood, catastrophe, insurrection, power or other utility failure, transportation failure, or governmental action. In the event Purchaser fails to begin substantial construction on the Property within the time described above, then the Seller may, at its option, within three hundred sixty (360) days of Purchaser's failure, repurchase the Property for a sum equal to the total purchase price paid by the Purchaser. Purchaser also understands that there are certain building restrictions in existence with respect to property located within CRP, and that certain approvals are necessary for the design and construction of any structure(s) on the Property. Seller understands and agrees that Purchaser's site development of the property for utilization of the land as a parking facility shall constitute substantial construction and that no additional facilities are contemplated for physical construction at this time.

B. Compliance with Restrictive Covenants. Purchaser agrees to comply with any and all rules and regulations with respect to structures on the Property, as they may be amended from time to time. Purchaser will indemnify and hold harmless Seller from and against any and all liability arising out of the destruction of or damage to the Property, or injuries or loss to, or death of any person in connection with the development, improvement or construction upon the Property, or any activity or project conducted thereon, other liability for any loss, damages or injuries that may result from Purchaser's acts. The provisions of this Paragraph shall survive Closing.

6. **Default.** Should Purchaser fail to carry out the terms and conditions of this Agreement in accordance with all of its provisions, this Agreement shall terminate with no

further obligations between the parties and Seller shall retain any money paid to Seller as liquidated damages. Should Seller fail to carry out this Agreement in accordance with all of its provisions, Purchaser shall have the option to either (1) demand a refund of any monies Purchaser may have paid or caused to be paid to Seller, and upon payment of such sums, this Agreement shall terminate, or (2) without demanding a return of any money, enforce specific performance of this Agreement.

7. **Policies and Procedures, Hazardous Materials.** Purchaser shall develop and implement policies and procedures for the storage, use, receipt and disposition of any hazardous materials that come onto its premises. Purchaser will not offer or accept, under these policies, hazardous materials for transportation in commerce unless said materials are properly classed, described, packaged, marked, labeled, and in such condition for proper shipment as required under Title 49 Code of Federal Regulations, Parts 171-179. The packaging of hazardous materials coming into or going out of its facilities shall be maintained in compliance with the regulations specified for each specific mode of transportation. This includes the proper handling and transport of all materials via air, highway, rail or water.

Materials handling, as part of all manufacturing operations, will be conducted within the confines of the building. This will include the inspection of product, material packing/unpacking, and all functions requiring product or by-product preparation for transportation. In the event by-product material removal becomes necessary, procedures will be placed into effect to ensure proper removal. Prior to the transport of materials, complete material evaluation will be conducted to ensure proper compliance with all applicable transportation requirements. All options will be evaluated for the beneficial reclamation or recycling for by-product material. Purchaser insures that its intrastate, interstate, and internal operations will be in compliance with all applicable requirements, and that it will fully comply with all federal, state, and local laws, regulations or ordinances regarding environmental, safety, industrial hygiene, and/or hazardous material requirements.

8. **Contingency.** This Agreement is contingent upon the approval of this Agreement by the City Council of the City of Huntsville, Alabama, with said approval to be verified by the issuance of a resolution substantial similar in form to the one shown and attached hereto and incorporated herein as Exhibit "D".

9. **Permitting and Approvals; Subdivision Plat.** Purchaser, its agents, employees, and contractors, will use commercially reasonable efforts to obtain all necessary licenses, permits, or approvals that are required to own, operate, construct improvements on, and/or maintain the Property. Accordingly, Seller shall work in good faith to assist Purchaser in its application for and obtaining of all applicable permits, licenses, or approvals required in connection with Purchaser's intended use of the Property. However, Purchaser acknowledges, understands, and agrees that Seller is in no way waiving or disclaiming, nor should this provision be construed as a waiver of, any applicable City of Huntsville or other governmental licensing, permitting, zoning ordinances, design guidelines, or building code requirements. Specifically, Purchaser understands and acknowledges that no grading and/or building permit can be issued by Seller until the Plat has been finalized, approved, and recorded as required by the City's subdivision regulations and permitting requirements.

10. **Miscellaneous Provisions.**

A. Entire Agreement. This Agreement, with all Exhibits attached hereto, and the ordinances, restrictions and covenants of CRP as herein referenced constitute the entire agreement between the parties. All statements, representations and covenants heretofore made and any other agreements not incorporated herein are void and of no force and effect.

B. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

C. Amendments. This Agreement may only be modified or amended in a writing signed by both parties.

D. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Alabama, without regard to its conflict of law provisions.

E. Notice. All notices shall be properly given only if made in writing and sent to the addresses set forth below and may be provided by any of the following methods: (i) hand delivery; (ii) certified U.S. Mail or other nationally-recognized overnight delivery service (such as UPS or FedEx); or (iii) electronic transmission (such as e-mail or PDF). Such 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 electronic transmission, on the date the transmission is sent. Notice shall be provided to the following:

If to the City:

The City of Huntsville  
Attn: Shane Davis and Jim McGuffey  
320 Fountain Circle  
Huntsville, Alabama 35801  
Email: [Shane.davis@huntsvilleal.gov](mailto:Shane.davis@huntsvilleal.gov)  
[Jim.mcguffey@huntsvillal.gov](mailto:Jim.mcguffey@huntsvillal.gov)  
Phone: 256-427-5300

If to the Purchaser:

Blue Origin Alabama, LLC  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_

With a Copy to:

Wilmer & Lee, P.A.  
Attn: Sam Givhan and Katie Beasley  
100 Washington Street  
Huntsville, Alabama 35801  
Email: [sgivhan@wilmerlee.com](mailto:sgivhan@wilmerlee.com)  
[kbeasley@wilmerlee.com](mailto:kbeasley@wilmerlee.com)  
Phone: 256-533-0202

With a Copy to:

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
Phone: \_\_\_\_\_



G. Real Estate Commission. Seller and Purchaser acknowledge that no broker and/or finder arranged the sale of the Property on the terms and conditions contained herein. Seller and Purchaser do hereby agree to indemnify each other from all loss, damage, cost or expense, including attorney's fees, that they may suffer as a result of any claim or action brought by any other broker, acting on behalf of Seller or Purchaser, respectively.

H. 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.

I. Further Assurances. Upon Closing Agent's request, the parties shall execute and deliver any additional documents reasonably required to carry out the transaction contemplated by this Agreement or to correct any scrivener's error contained in this Agreement or any document executed pursuant hereto or in connection with the transaction contemplated herein.

J. Effective Date. For purposes hereof, the term "Effective Date" shall mean the date the Agreement is executed by the City.

K. Email, Facsimile, or Electronic Signatures. The parties agree that this document may be executed and the signatures transmitted to the other parties by facsimile, email or similar electronic transmission. Handwritten signatures transmitted by facsimile, email, or other similar electronic transmission shall be valid and effective as to the party so signed. Notwithstanding the preceding sentence, the parties agree that they will transmit original signature pages to the other parties and Closing Agent promptly after execution. Furthermore, Purchaser understands that this Agreement cannot be placed as an item on a City Council Agenda for review and approval, until Purchaser's original signature page has been received by the City's legal department.

L. Counsel Acknowledgment. The parties all acknowledge that Seller's counsel, SAMUEL H. GIVHAN and KATHERINE AMOS BEASLEY, and the law firm of Wilmer & Lee, P.A. (collectively "Counsel") prepared this Agreement on behalf of and in the course of Counsel's representation of Seller and, for the purpose of this transaction, Counsel represents Seller's interest and no other interests.

M. Assignment. Purchaser shall have the right to assign this Agreement or any of its rights and responsibilities to Blue Origin or any other affiliated entity with common ownership to Purchaser hereunder at any time without consent of Seller; from and after the date of such assignment, the term Purchaser, as used herein, shall mean and include such assignee. Purchaser shall notify Seller in writing of any assignment and shall provide Seller with the name and contact information of the assignee.

N. Successors and Assigns. This Agreement shall be binding upon the heirs, personal representatives, successors and assigns of Purchaser.

O. Time is of the Essence. Time is of the essence of this Agreement. However, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday, or legal holiday under the law of the United States, or of the State in which the property is located, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday, or legal holiday. A business day shall refer to Monday through Friday.P.

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

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date set forth below.

***[Signatures and acknowledgements appearing on the following pages.]***

***[Seller Signature page to Real Estate Agreement.]***

**SELLER:**

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

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

**ATTEST:**

By: \_\_\_\_\_  
Shaundrika Edwards, Interim Clerk-  
Treasurer

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

***[Purchaser Signature page to Real Estate Agreement.]***

**PURCHASER:**

**Blue Origin Alabama, LLC**, an Alabama limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Witnessed:

By: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

A tract of land lying and being in Sections 35 and 36, Township 3 South, Range 2 West of the Huntsville Meridian.

Said tracts being a portion of property conveyed to The City of Huntsville in Deed Book 910, Page 242, Deed Book 1007, Page 566, and Instrument 2006-56130 as recorded in the Office of the Judge of Probate for Madison County, Alabama and being more particularly described as follows:

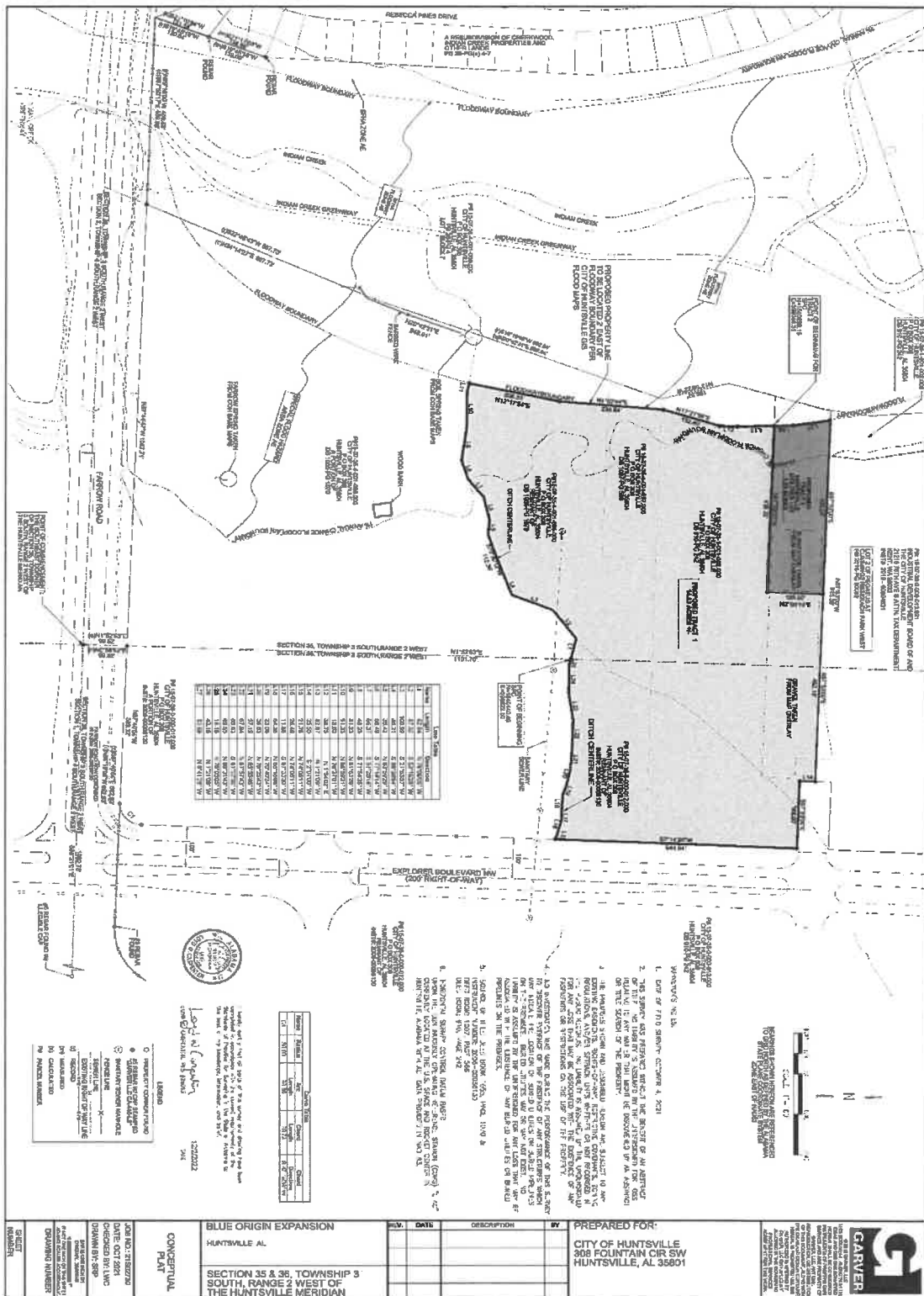
Commencing at the Southeast corner of Section 35, Township 3 South, Range 2 West of the Huntsville Meridian; thence North 1 Degree 52 Minutes 53 Seconds East a distance of 1101.70 feet to a #5 rebar with a cap stamped "GARVER LLC CA-445-LS" (typical) set in the center of an existing ditch, said point being the Point of Beginning of the herein described tract and having established grid coordinates of N 1540440.49, E 396622.50 of the Alabama State Plane Coordinate System, Zone East of North American Datum of 1983 (NAD83); Thence along said centerline of ditch North 76 Degrees 05 Minutes 05 Seconds West a distance of 52.54 feet; thence South 53 Degrees 15 Minutes 28 Seconds West a distance of 87.32 feet; thence South 21 Degrees 53 Minutes 57 Seconds West a distance of 100.99 feet; thence South 69 Degrees 39 Minutes 54 Seconds West a distance of 46.21 feet; thence South 70 Degrees 30 Minutes 12 Seconds West a distance of 112.36 feet; thence North 83 Degrees 59 Minutes 29 Seconds West a distance of 35.42 feet; thence South 77 Degrees 14 Minutes 14 Seconds West a distance of 58.49 feet; thence South 51 Degrees 26 Minutes 16 Seconds West a distance of 56.37 feet; thence South 71 Degrees 54 Minutes 35 Seconds West a distance of 48.25 feet; thence North 81 Degrees 53 Minutes 29 Seconds West a distance of 81.23 feet; thence North 88 Degrees 59 Minutes 31 Seconds West a distance of 91.33 feet; thence North 75 Degrees 37 Minutes 01 Seconds West a distance of 18.50 feet to a #5 rebar set; thence leaving said centerline of ditch North 12 Degrees 17 Minutes 54 Seconds East a distance of 208.33 feet; thence North 4 Degrees 52 Minutes 44 Seconds East a distance of 236.64 feet; thence North 17 Degrees 27 Minutes 56 Seconds East a distance of 132.40 feet; thence North 1 Degrees 54 Minutes 02 Seconds East a distance of 38.75 feet; thence North 1 Degrees 21 Minutes 09 Seconds West a distance of 82.87 feet to a #5 rebar set; thence South 87 Degrees 53 Minutes 00 Seconds East a distance of 410.22 feet to a #5 rebar set; thence North 2 Degrees 06 Minutes 14 Seconds East a distance of 125.50 feet to a #5 rebar set on the south boundary of lot 2 of Pegasus at Cummings Research Park West as recorded in the Office of the Judge of Probate of Madison County, Alabama in Instrument 2018-80089; thence along said south boundary of lot 2 South 87 Degrees 53 Minutes 00 Seconds East a distance of 462.15 feet to a #5 rebar set on the west right-of-way of Explorer Boulevard NW; thence leaving said south boundary and along said right-of-way South 2 Degrees 07 Minutes 00 Seconds West a distance of 35.50 feet to a #5 rebar set; thence South 87 Degrees 53 Minutes 00 Seconds East a distance of 166.60 feet to a #5 rebar set; thence South 2 Degrees 14 Minutes 20 Seconds West a distance of 544.94 feet to a #5 rebar set in the centerline of an existing ditch; thence leaving said right-of-way and along said centerline of ditch North 74 Degrees 06 Minutes 11 Seconds West a distance of 21.78 feet; thence North 74 Degrees 06 Minutes 11 Seconds West a distance of 26.49 feet; thence South 87 Degrees 33 Minutes 30 Seconds West a distance of 11.88 feet; thence North 85 Degrees 16 Minutes 06 Seconds West a distance of 54.38 feet; thence North 70 Degrees 40 Minutes 24 Seconds West a distance of 23.08 feet; thence North 76 Degrees 25

Minutes 43 Seconds West a distance of 36.63 feet; thence North 85 Degrees 55 Minutes 46 Seconds West a distance of 57.19 feet; thence North 87 Degrees 57 Minutes 43 Seconds West a distance of 67.94 feet; thence South 81 Degrees 22 Minutes 30 Seconds West a distance of 65.63 feet; thence North 89 Degrees 31 Minutes 43 Seconds West a distance of 69.65 feet; thence North 76 Degrees 05 Minutes 05 Seconds West a distance of 15.16 feet to the POINT OF BEGINNING.

The above-described tract contains 14.83 acres (645815.94 sq. ft.) more or less and is subject to any existing easements and rights-of-way whether or not recorded in public records.

\*\*\*Once the Plat is finalized and recorded, the legal description set forth above shall be replaced and the Property shall be described as set forth within the recorded Plat.\*\*\*

LYDZarpender 12/1/2022 8:46:19 AM  
WORKSPACE:Survey\_2012  
L:\2012\12\01\230 - Quantum Research\Survey\2720 V-MP-QUANTUM RESEARCH BLUE TRACTs 1dec22.spr



**EXHIBIT "C"**  
**(Form of Statutory Warranty Deed)**

**STATUTORY WARRANTY DEED**

**THIS INDENTURE**, made and entered into on this the \_\_\_\_ day of \_\_\_\_\_, 202\_\_,

by and between the **City of Huntsville**, an Alabama municipal corporation, as party of the first part, hereinafter called "Grantor," and **Blue Origin Alabama, LLC**, an Alabama limited liability, as party of the second part, hereinafter called "Grantee."

**WITNESSETH:** That for and in consideration of good and valuable consideration, to it paid this day by Grantee, receipt of which is hereby acknowledged, has this day given, granted, bargained, sold and conveyed and does by these presents give, grant, bargain, sell and convey unto Grantee, subject to the reservations and exceptions hereinafter made and with the restrictions and upon the covenants stated below, the following described real estate, lying and being situated in the City of Huntsville, County of Madison, State of Alabama, to-wit (the "Property"):

See **Exhibit "A"** attached hereto and incorporated herein.

LESS AND EXCEPT any and all easements, and right of ways to the benefit of Grantor and all public utilities as currently in place, and all of which are hereby RESERVED UNTO Grantor, and subject to all restrictions and other matters of record.

**TO HAVE AND TO HOLD** the real estate above described, together with all and singular the rights, privileges, tenements, hereditaments, appurtenances and improvements thereunto belonging or in anywise appertaining unto Grantee, its successors and assigns forever, in fee simple.

Grantor does hereby covenant with and represent unto Grantee, its successors and assigns, that Grantor is lawfully seized in fee of the tracts or parcels of land above described; that the same are free of encumbrances, that it has a good and lawful right to sell and convey the same; and that it will warrant and defend the title to the same unto Grantee, its successors and assigns forever, except as to ad valorem taxes, and any easements, rights of way and restrictions of record.

1. Use of the real estate shall be subject to the Protective Covenants to Cummings Research Park West, as recorded in Deed Book 626 at Page 602, as amended, in the Office of the Judge of Probate of Madison County, Alabama.

2. Use of the real estate shall be subject for a period of twenty (20) years to the following restrictions, which shall be deemed for all purposes covenants running with the land, violation of which may be enjoined at the suit of the within Grantor, its successors or assigns, including the immediate and remote Grantees of the within Grantor of other parcels of land



within the area acquired and developed by the Grantor known as the "Cummings Research Park West." Such restrictions are as follows, to-wit:

(a) Said property shall be used only for the purposes of laboratories, offices and other facilities for basic and applied research and development, testing and consulting, whether public or private; production or assembly of prototype products, scientifically-oriented production, or the assembly of high-technology products which are related to the on-site research and development activities of the Grantee or its assigns; or any use permitted pursuant to Article 51 – "Research Park West District Regulations," of the Zoning Ordinance of the City of Huntsville, Alabama, (Ordinance Number 63-93, as amended).

(b) Said property, or any portion thereof, or any building, structure or improvement thereon shall not be used, kept, maintained or offered for general rental or lease purposes, except that the Grantee or its assigns may use, keep, maintain or offer up to 25% of the heated floor space of a building, structure or improvement on the property for general rental or lease purposes, for a qualified use, if the portion thus used, kept, maintained or offered for general rental or lease purposes is reasonably necessary for the future expansion of the Grantee, its primary tenant or its assigns. In no event shall an entire building, structure or improvement on the subject property be occupied by more than a primary or base tenant, plus one (1) additional tenant for each 7,500 square feet of permitted excess rental/lease area.

(c) Any failure or delay on the part of the within Grantor to object or to bring suit to enjoin any violation of these restrictions shall in no event be deemed a waiver of same, except with respect to Architectural Control Committee approval, as specifically provided in the Protective Covenants referenced in Paragraph 1, above.

3. It is expressly agreed and acknowledged by and between the parties hereto that the hereinabove described tract of land is being sold and conveyed to the Grantee for the construction thereon of a facilities and/or improvements to be used in accordance with the permitted uses hereinabove specified in Paragraphs 2(a), 2(b) and 2(c), and that a part of the consideration for the conveyance of said property to the Grantee is the Grantee's agreement to obtain a building permit, complete all site preparation, and to commence the actual physical construction of the improvements thereon, as approved by the Architectural Control Committee, within twelve (12) months from the date of this conveyance, and to continue without interruption the construction of the said facility until completed according to approved plans and specifications. The Grantee does for itself, its successors and assigns, agree that upon its failure to meet the requirements hereunder then the Grantor may, at its option, within 360 days of Grantee's failure, repurchase the above described tract of land for a sum equal to the total purchase price paid by the Grantee therefor plus the value of any improvements thereon.

4. The Grantee hereby agrees that in the event Grantee, or Grantee's assigns, shall elect to sell or otherwise dispose of any unimproved portion of the above described property within twenty (20) years from the date of this conveyance, Grantee shall first offer such unimproved portion to Grantor at the purchase price per acre of such portion paid by Grantee to Grantor. Grantor and Grantee hereby further agree as follows:

(a) Before offering any unimproved portion of the above described property for sale or development, the Grantee shall submit its plan therefor to the Planning Commission of the City of Huntsville, Alabama, for approval as is required by law in the subdivision of land. The costs of such submission shall become a part of the purchase price of the property in the event the Grantor herein shall elect to exercise its right of first refusal as permitted in this Paragraph 4.

(b) Before consummating any sale of any unimproved portion of the real property involved, Grantee, or Grantee's assigns, shall notify Grantor in writing of its intention to sell the same as a separate parcel of property and shall offer such property to Grantor in writing at the price hereinabove specified. In the event Grantor shall elect so to repurchase said property, it shall so notify the Grantee, or Grantee's assigns, in writing, and shall pay the amount of the sale price in cash to Grantee or Grantee's assigns, upon delivery of a deed from the Grantee, or Grantee's assigns, reconveying such unimproved parcel of property to Grantor, subject only to ad valorem real property taxes for the then current year, and covenants, restrictions, reservations and rights-of-way then of record. In the event Grantor shall not so notify Grantee, or Grantee's assigns, in writing of its election to repurchase said property within forty-five (45) days from receipt of notification from Grantee, or having given such notice of its election to repurchase, shall not tender the purchase price thereof, as aforesaid, within forty-five (45) days after delivery of such notice from Grantor of its election to repurchase, Grantee, or Grantee's assigns, shall no longer be obligated to Grantor with respect to any repurchase of such unimproved real property. Such unimproved real property shall be selected by Grantee or Grantee's assigns, in such manner that no one (1) major dimension shall exceed any other major dimension by a factor in excess of two (2) and shall be in the configuration of a rectangle or square as nearly as practicable; provided, however, that if at least one boundary of said property, when so placed as to comply with building set-back provisions of applicable building codes and restrictions does not abut a public street, or streets, said area shall be enlarged by extension of the boundaries thereof in straight lines to the extent necessary to cause said area to abut the nearest public street providing access to said area.

(c) In the event Grantee, or Grantee's assigns, shall have made substantial improvements, including construction of a building, and desires to sell the entire tract of real property here involved to a single purchaser in one transaction, the Grantee or its assigns shall be under no obligation to Grantor with respect to offering the property for repurchase.

(d) Grantee, or Grantee's assigns, shall be under no obligation to Grantor with respect to offering the unimproved real property to Grantor as herein provided in this Paragraph 4, and shall be entitled to retain any consideration received, if the contemplated sale or transfer by Grantee, or Grantee's assigns, is:

(1) A sale or transfer to the United States or the State of Alabama or to any department, subdivision or agency thereof, including any legally established Industrial Development Board or other public corporation expressly authorized under Alabama Law, or to any municipality or municipal corporation, whether voluntary or involuntary, or any other sale or transfer under threat of condemnation, or

(2) To a wholly owned subsidiary of the Grantee, or Grantee's assigns, or to a

legal entity of which the Grantee, or Grantee's assigns, own more than 50% interest.

(3) In connection with a merger, consolidation, reincorporation, any reorganization of the types described in Section 368 of the Internal Revenue Code of 1986, as amended from time to time, or any similar provision of the Internal Revenue laws of the United States, or other corporate reorganization, except under the laws relating to bankruptcies, affecting or involving the Grantee, or

(4) To an investor pursuant to a sale and leaseback agreement whereby such investor shall have agreed to construct upon such property a facility in conformance with Paragraph 2 leased to or to be occupied by the Grantee or the Grantee's successor in title as a result of a sale or transfer by Grantee, or Grantee's assigns, of a type described in Subparagraph (2) or (3) above; or

(5) Any sale or conveyance approved in writing by Grantor; provided, however, that this option to repurchase and the restrictions elsewhere set out in this option shall continue in effect as to said land or part thereof, in the hands of any successor in title of Grantee as a result of a sale or transfer of a type described in Subparagraphs (2), (3), (4), above, or in this Paragraph. It is further provided that this option and said restrictions shall apply in the event of any involuntary transfer or conveyance of the above described property suffered by the Grantee or Grantee's assigns, (except an involuntary transfer or conveyance of the type described in Subparagraph (1) above) with like effect as to a voluntary sale, conveyance or transfer and shall be, in any case, deemed a covenant running with the land.

(e) In the event Grantee, or Grantee's assigns, shall wish to encumber all or any portion of the real property herein involved in conjunction with a building program for the improvement of such property, Grantor will, upon request, subordinate the rights contained in the foregoing paragraphs to any such encumbrances, provided, however, said mortgage or encumbrances will provide that in the event of default the within Grantor will be given thirty (30) days notice before foreclosure proceedings or any other action is instituted.

(f) Nothing in this Paragraph 4 shall be deemed to inhibit the right of Grantee, or Grantee's assigns, acting without the concurrence of Grantor, to grant easements or rights-of-way for the installation of utilities or roadways deemed necessary by Grantee, or Grantee's assigns, for appropriate utilization of the premises.

5. In the event Grantee or Grantee's assigns conveys less than the entire Combined Parcel ("Partial Conveyance"), the Partial Conveyance shall be for no less than five (5) acres and the retained parcel must not be less than five (5) acres.

6. The foregoing agreements shall be valid for a period of twenty (20) years from the date of this conveyance.

7. The City Council of the City of Huntsville, Alabama, may grant a written exception to the restrictions herein contained, by resolution which shall clearly and specifically set forth the exception and the reasons therefore. The City Council shall hold a public hearing on



**EXHIBIT "D"**

(Example City Council Resolution)

**RESOLUTION NO. 23- \_\_\_\_**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama that the Mayor be and he is hereby authorized to enter into a Real Estate Agreement by and between the City of Huntsville, a municipal corporation in the State of Alabama, and Blue Origin Alabama, LLC, an Alabama limited liability company, which said agreement is substantially in words and figures as that certain document attached hereto and identified as "Real Estate Agreement between the City of Huntsville and Blue Origin Alabama, LLC," consisting of nineteen (19) pages, including Exhibits, and the date of \_\_\_\_\_, 2023, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Mayor be and he is hereby authorized to execute and enter into the Real Estate Agreement, on behalf of the City of Huntsville, with such changes as the Mayor deems desirable and necessary, including the authority to execute, perform, amend, and assign said document and/or the authority to execute all such closing documents relevant or relating to effect and complete the real estate transaction and land transfer contemplated therein.

**ADOPTED** this the \_\_\_\_ day of \_\_\_\_\_, 2023.

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

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor of the City of Huntsville, Alabama