

RESOLUTION NO. 30636

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A TEMPORARY WAIVER OF REVERSION, IN SUBSTANTIALLY THE FORM ATTACHED, IN FAVOR OF THE SECURITY INTEREST OF FIRST HORIZON BANK, AUTHORIZING THE CITY TO TEMPORARILY WAIVE FOR A PERIOD OF FIFTEEN (15) YEARS, THE RIGHT OF REVERSION ON THE MCKAMEY ANIMAL CENTER PARCEL LOCATED AT 4500 N. ACCESS ROAD, IDENTIFIED AS TAX PARCEL NO. 119H-A-001.04.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, that it is hereby authorizing the Mayor to execute a Temporary Waiver of Reversion, in substantially the form attached, in favor of the security interest of First Horizon Bank, authorizing the City to temporarily waive for a period of fifteen (15) years, the right of reversion on the McKamey Animal Center parcel located at 4500 N. Access Road, identified as Tax Parcel No. 119H-A-001.04.

ADOPTED: February 9, 2021

/mem

## TEMPORARY WAIVER OF REVERSION

THIS TEMPORARY WAIVER OF REVERSION ("Temporary Waiver") is made effective February 2, 2021, by the CITY OF CHATTANOOGA, a Tennessee municipal corporation (the "City") in favor of FIRST HORIZON BANK, a Tennessee banking corporation ("Bank").

WHEREAS, pursuant to that certain Quitclaim Deed recorded in the Hamilton County, Tennessee Register of Deeds Office at Book 11761, Page 912 (the "Deed"), the City transferred to ANIMAL CARE TRUST d/b/a MCKAMEY ANIMAL CENTER ("MAC") property located on North Access Road, Chattanooga, Hamilton County, Tennessee, as more particularly described in said Quitclaim Deed attached hereto and incorporated herein as Exhibit A (the "Property"); and

WHEREAS, MAC, pursuant to security agreements and other documents entered into or to be entered into with Bank, has granted or will grant Bank a security interest in the Property (the "Collateral"), as security for a loan which Bank has made or will make to MAC; and

WHEREAS, Bank is willing to make and continue such loan only if the City temporarily waives its right of reversion found in the Deed ("Right of Reversion") with respect to the Collateral; and

WHEREAS, the City acknowledges the loan being made to MAC by Bank will benefit the City by enabling MAC to operate its business in providing animal services;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City agrees as follows:

1. The City hereby temporarily waives its Right of Reversion in favor of Bank with respect to the Collateral for the term of the loan being fifteen (15) years beginning February 16, 2021, and ending February 16, 2036 (the "Temporary Waiver Period"). The City understands that Bank will be filing a deed of trust against the Collateral, and agrees that the Bank's deed of trust is superior to that of the Right of Reversion during the Temporary Waiver Period.
2. The City consents to and agrees that MAC may grant Bank a security interest in the Collateral and waives any default or reversion rights during the Temporary Waiver Period that may otherwise exist under any deed or other agreement between the City and MAC because of Bank's security interest in the Collateral.
3. The City agrees that this Temporary Waiver may be enforced by and shall inure to the benefit of Bank's successors and assigns. This Temporary Waiver may be terminated or amended only with the written consent of Bank unless the loan is paid in full, at which time the Temporary Waiver shall automatically terminate. In the event of a foreclosure of the collateral by the Bank, or its successors or assigns, the Right of Reversion in favor of the City of Chattanooga shall have no further effect and shall not create a lien, claim or other encumbrance on the title to the real property.
4. This Temporary Waiver may be executed in any number of separate counterparts and all such executed counterparts shall constitute one agreement, which shall be binding on the parties notwithstanding that all parties are not signatories to the same counterpart or counterparts. Each party may transmit its signature by facsimile, e-mail (.pdf or similar), electronic signature, or by other electronic transmission to the other party or parties, and any faxed, e-mail, or electronic signature and/or faxed, e-mail, or electronic transmitted counterpart of this Waiver shall have the same force and effect as an original.

5. This Temporary Waiver will automatically terminate at any time the loan is paid in full or upon maturity of the loan on February 16, 2036, and the City's Right of Reversion set forth in the Deed shall be in full force and effect with respect to any collateral in which the City has a reversionary interest. Upon the occurrence of either event described in this Paragraph 5, Bank agrees to record a Release of Temporary Waiver of Reversion in the Register's Office of Hamilton County, Tennessee.

IN WITNESS WHEREOF, the City executed this Temporary Waiver effective the date first above written.

CITY:

CITY OF CHATTANOOGA

By: \_\_\_\_\_  
ANDY BERKE, *Mayor*

ACCEPTED:

FIRST HORIZON BANK

By: \_\_\_\_\_  
SHELLY H. KILLIAN, *Senior Vice President*

ACKNOWLEDGED:

ANIMAL CARE TRUST d/b/a MCKAMEY ANIMAL  
CENTER

By: \_\_\_\_\_  
INGA FRICKE, *Executive Director*

**ACKNOWLEDGMENT  
FOR THE CITY**

STATE OF TENNESSEE

COUNTY OF HAMILTON

Before me, a Notary Public of the state and county mentioned, personally appeared Andy Berke, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be Mayor of the CITY OF CHATTANOOGA, the within named bargainer, a Tennessee municipal corporation, and that such person as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by personally signing the name of the corporation by such person as such Mayor.

WITNESS my hand and seal, at office in Hamilton County, Tennessee, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**ACKNOWLEDGMENT  
FOR FIRST HORIZON BANK**

STATE OF TENNESSEE

COUNTY OF HAMILTON

Before me, a Notary Public of the state and county mentioned, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be \_\_\_\_\_ of FIRST HORIZON BANK, the within named bargainer, a Tennessee banking corporation, and that he/she as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by personally signing the name of corporation by himself/herself as such \_\_\_\_\_.

WITNESS my hand and seal, at office in Hamilton, County, Tennessee, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**ACKNOWLEDGMENT  
FOR MAC**

STATE OF TENNESSEE

COUNTY OF HAMILTON


Before me, a Notary Public of the state and county aforementioned, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the \_\_\_\_\_ of ANIMAL CARE TRUST d/b/a MCKAMEY ANIMAL CENTER, the within named bargainer, a Tennessee nonprofit corporation, and that such person, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by such person as \_\_\_\_\_.

WITNESS my hand and seal, at office in Hamilton County, Tennessee, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**QUITCLAIM DEED**


 Book/Page: **GI 11761 / 912**  
 Instrument: 2019091800068  
 6 Page QUITCLAIM DEED  
 Recorded by TLF on 9/18/2019 at 9:40 AM  
 DEED RECORDING FEE 30.00  
 DATA PROCESSING FEE 2.00  
  
**TOTAL FEES \$32.00**  
 State of Tennessee Hamilton County  
 Register of Deeds **MARC GRAVITT**

cc

**THIS INSTRUMENT PREPARED BY:**

Valerie L. Malueg, Esq.  
*Assistant City Attorney*  
 City of Chattanooga, Tennessee  
 100 E. 11<sup>th</sup> Street, Suite 200  
 Chattanooga, Tennessee 37402

The preparer of this instrument makes no warranty or representation as to the status of title of the property described therein, the existence or non existence of any liens, encumbrances, easements, or other encroachments, and shall have no liability for the status of the title to the property.

MA-1

<u>GRANTEE'S NAME AND ADDRESS</u>	<u>MAIL TAX NOTICES TO:</u>	<u>MAP PARCEL NO.</u>
The McKamey Animal Center 4500 N. Access Road Chattanooga, TN 37415	Same	119H-A-001.04

**QUITCLAIM DEED**

In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CITY OF CHATTANOOGA, a Tennessee municipal corporation ("Grantor"), with situs in Hamilton County, Tennessee, transfers, conveys, and quitclaims unto ANIMAL CARE TRUST d/b/a as the MCKAMEY ANIMAL CENTER, a Tennessee nonprofit corporation, all of Grantor's right, title and interest in and to the following described real estate, located in the City of Chattanooga, Hamilton County, Tennessee, as more particularly described on **Exhibit A** attached hereto and incorporated herein by reference (the "Property").



A new legal description was not obtained for this transaction. The legal description contained in **Exhibit A** is the legal description contained in the Limited Warranty Deed recorded in Book 5740, Page 488, Register's Office of Hamilton County, Tennessee, when the Property was conveyed to Grantor.

**Right of Reversion.** The Grantee herein or its assigns, shall use the Property herein conveyed for the purpose operating an animal care and adoption program for the benefit of the community. Should the Property cease to be operated for the purpose stated herein as solely determined by the Grantor, then Grantor may elect to exercise its right of reversion in the Property conveyed herein and all improvements and fixtures located thereon shall revert to Grantor.

If Grantor elects to exercise its right of reversion, a memorandum declaring such reversion and executed by the Mayor shall be recorded in the Office of the Register of Deeds of Hamilton County, Tennessee and shall constitute conclusive evidence of such reversion.

No assurance of title or warranty of any type, kind or nature is given by this Quitclaim Deed. Restrictions on the Property, if any, whether contained in prior title or otherwise, are not lifted or removed by this Quitclaim Deed.

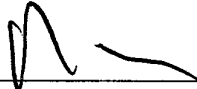
This Quitclaim Deed is given by Grantor pursuant to Resolution No. 30037 adopted by the Chattanooga City Council on August 20, 2019, declaring the Property as surplus. A copy of Resolution 30037 is attached as **Exhibit B** and incorporated herein by reference.

The Property conveyed herein is the same property conveyed to Grantor by deed recorded in Deed Book 5740, Page 488, Register's Office of Hamilton County, Tennessee.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor, by and through its Mayor, has hereunto set his signature,  
duly attested by the Administrator for the Department of Economic and Community Development,  
this 16<sup>th</sup> day of September, 2019.

CITY OF CHATTANOOGA

BY:   
Andy Berke, Mayor

ATTEST:

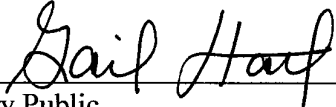


DONNA C. WILLIAMS, Administrator  
Department of Economic and Community Development

STATE OF TENNESSEE    )  
COUNTY OF HAMILTON   )

Before me, a Notary Public of the state and county mentioned, personally appeared Andy Berke and Donna Williams, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Mayor and Administrator for the Department of Economic and Community Development for the City of Chattanooga, the within named bargainer, a public corporation, and that they as such officials, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

WITNESS my hand and seal, at office in Hamilton County, Tennessee, this 16<sup>th</sup> day of September, 2019.

  
Notary Public  
My Commission Expires: 02-28-22





STATE OF TENNESSEE )  
COUNTY OF HAMILTON )

I hereby swear or affirm that the actual consideration for this transfer is \$0.

Jamie McElroy  
Affiant

Sworn and subscribed to before me this  
17 day of September, 2019.

Paula C. Huron  
Notary Public  
My Commission Expires: 2-28-23

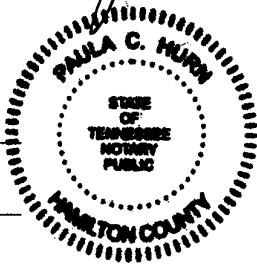


EXHIBIT "A"

A tract of land situated in the City of Chattanooga, Hamilton County, Tennessee being a portion of the property described in Deed Book 867, Page 542 in the Register's Office of Hamilton County, Tennessee and being hereafter referred to as Lot 1, DuPont Plant Subdivision and being more particularly described as follows:

BEGINNING at a concrete highway monument on the eastern right-of-way of Dupont Parkway having a right-of-way width that varies and on the western line of the Remaining Portion of the E. I. du Pont de Nemours and Company Tract recorded in Deed Book 867, Page 542, in the Register's Office of Hamilton County, Tennessee; thence, with and along said right-of-way North 26 degrees 30 minutes 00 seconds East, 652.60 feet to a concrete highway monument; thence, North 25 degrees 11 minutes 06 seconds East, 149.96 feet to a concrete highway monument; thence, North 35 degrees 30 minutes 55 seconds East, 257.30 feet to a concrete highway monument; thence, North 49 degrees 10 minutes 22 seconds East, 281.36 feet to a concrete highway monument; thence, North 89 degrees 20 minutes 38 seconds East, 162.36 feet to a concrete highway monument on the southern right-of-way of North Access Road having a right-of-way width that varies; thence, with and along said North Access Road South 65 degrees 37 minutes 53 seconds East, 235.78 feet to an iron rod set; thence, leaving said right-of-way South 26 degrees 30 minutes 00 seconds West, 1268.25 feet to an iron rod set; thence North 77 degrees 29 minutes 18 seconds West, 541.47 feet to the POINT OF BEGINNING.

Said tract herein contains 653,400.00 Sq. ft. or 15.000 acres.

**EXHIBIT "B"**

RESOLUTION NO. 30037

A RESOLUTION DECLARING SURPLUS OF PROPERTY LOCATED AT 4500 N. ACCESS ROAD, FURTHER IDENTIFIED AS TAX MAP NO. 119H-A-001.04 AND AUTHORIZING THE MAYOR TO ENTER INTO A DONATION AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED, AND ANY RELATED DOCUMENTS, BETWEEN MCKAMEY ANIMAL CENTER AND THE CITY OF CHATTANOOGA FOR THE DONATION OF THE PROPERTY INCLUSIVE OF REVERSIONARY LANGUAGE IN THE DEED THAT SHOULD THE PROPERTY CEASE TO BE USED FOR THE STATED PURPOSE, IT SHALL REVERT BACK TO THE CITY OF CHATTANOOGA.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby declaring surplus of property located at 4500 N. Access Road, further identified as Tax Map No. 119H-A-001.04 and authorizing the Mayor to enter into a Donation Agreement, in substantially the form attached, and any related documents, between McKamey Animal Center and the City of Chattanooga for the donation of the property inclusive of reversionary language in the deed that should the property cease to be used for the stated purpose, it shall revert back to the City of Chattanooga.

ADOPTED: August 20, 2019

/mem