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BONNIE M. HOWE  
MORTGAGE CO. RECORDER

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DECLARATION OF RESTRICTIONS

This Declaration of Restrictions (this Declaration) is made on this 31<sup>st</sup> day of May, 2011 by the City of Aurora, an Ohio Municipal Corporation ("Declarant").

Recitals:

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A. Declarant owns certain property located in Portage County, Ohio as more particularly described on Exhibit A attached hereto and made a part hereof (the Property).

B. Declarant applied for and has received a grant from the State of Ohio, acting by and through the Director of the Ohio Public Works Commission (OPWC), pursuant to Ohio Revised Code 164.20 et seq. (the Grant). In connection with Declarant's application for the Grant, Declarant proposed to use the Grant funds either for open space acquisition and related development or to protect and enhance riparian corridors, as set forth more specifically in its application.

C. As a condition to Declarant's receipt of the Grant, Declarant has agreed to restrict the use of the Property as set forth in this Declaration, with the intent that such restrictions run with the land.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant, for itself and its successors and assigns as owners of the Property, hereby agrees as follows:

1. Use and Development Restrictions. Declarant hereby agrees, for itself and its successors and assigns as owners of the Property, that the Property shall be utilized as public park land and natural conservation area in perpetuity and shall be used only for the preservation, restoration, and management of open space and habitat; education; and public recreation including recreational trails, and fishing in accordance with the park rules and regulations to be adopted and implemented by Declarant from time to time (the "Limitations"). The property shall contain trails, rest facilities, benches, shelters, restrooms, picnic facilities and similar amenities for park users, as well as parking areas suitable for park users and maintenance and emergency services (the "Improvements"). Notwithstanding the Limitations, Declarant shall have the right, but not the obligation, to construct, reconstruct, maintain and repair, at its sole expense, the Improvements upon the Property to make the Property and Improvements suitable for intended use of such property. Declarant acknowledges that the Property improvements include both historic (the Ebenezer Sheldon House and the Land Office) and other existing structures and Declarant

reserves the right to restore and utilize both the historic and other structures for adaptive re-use to promote activities that enhance the intended purpose of the Property as a public park and for the use by

private not for profit entities such as the historical society as well as direct use by Declarant's department of parks and recreation.

2. Perpetual Restrictions. The restrictions set forth in this Declaration shall be perpetual and shall run with the land for the benefit of, and shall be enforceable by, OPWC. This Declaration and the covenants and restrictions set forth herein shall not be amended, released, extinguished or otherwise modified without the prior written consent of OPWC, which consent may be withheld in its sole and absolute discretion.

3. Enforcement. If Declarant, or its successors or assigns as owner of the Property, should fail to cure a material breach of the covenants and restrictions set forth herein within a reasonable time after notification by OPWC that such a material breach has occurred then, the Declarant or its successors or assigns, as the case may be, shall pay to OPWC, upon demand, as liquidated damages, an amount equal to the greater of (a) two hundred percent (200%) of the amount of the Grant received by Declarant, together with interest accruing at the rate of six percent (6%) per annum from the date of Declarant's receipt of the Grant, or (b) two hundred percent (200%) of the fair market value of the Property as of the date of demand by OPWC. Declarant acknowledges that such sum is not intended as, and shall not be deemed, a penalty, but is intended to compensate for damages suffered in the event a breach or violation of the covenants and restrictions set forth herein, the determination of which is not readily ascertainable. OPWC shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions and covenants set forth herein. Failure by OPWC to proceed with such enforcement shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation.

4. Restriction on Transfer of the Property. Declarant acknowledges that the Grant is specific to Declarant and the OPWC's approval of Declarant's application for the Grant was made in reliance on Declarant's continued ownership and control of the Property. Accordingly, Declarant shall not voluntarily or involuntarily sell, assign, transfer, lease exchange, convey or otherwise encumber the Property without the prior written consent of OPWC, which consent may be withheld in its sole and absolute discretion.

5. Separability. Each provision of this Declaration and the application thereof to the Property are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration.

6. Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice addresses of the parties are as follows:

Declarant: City of Aurora  
130 S. Chillicothe Road  
Aurora, OH 44202  
Attn: Mayor

OPWC: Ohio Public Works Commission  
65 East State Street  
Suite 312  
Columbus, Ohio 43215  
Attn: Director

7. Governing Law. This Declaration shall be governed by, and construed in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Restrictions to be executed this 31 day of MAY, 2011.

DECLARANT  
City of Aurora ✓

By: Lynn E. McGill

Name: Lynn E. McGill

Title: Mayor

Date: 5/31/11

*Prepared by City Journal*

STATE OF OHIO )

COUNTY OF Portage ) SS

The foregoing instrument was acknowledged before me this 31 day of MAY, 2011, by Lynn E. McGill, as Mayor of the City of Aurora, Ohio.

[Signature]  
Notary Public

Approved as to Form by:

[Signature]  
Alan I. Shorr, Law Director



ANGIE M. PERECES  
Notary Public, State of Ohio  
06 NT 00342  
My Commission Expires  
October 23, 2011

## EXHIBIT A

### LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PORTAGE, STATE OF OHIO, AND IS DESCRIBED AS FOLLOWS:

#### PARCEL 1:

Situated in the Township of Mantua, Portage County, Ohio and known as being part of Lot 19 in said Township and is more fully described as follows:

Beginning at an Iron rod in the West line of Mantua Township at the Southwest corner of Lot 19; Thence along the South line of Lot 19 North  $88^{\circ} 50' 30''$  East a distance of 293.45 feet to an iron pipe which is the true place of beginning for this parcel of land;

Thence North  $01^{\circ} 40'$  West a distance of 1184.31 feet to a point in the curved South line of the Erie Railroad Company right-of-way;

Thence along said right-of-way along the arc of a curve deflecting to the right a distance of 630.33 feet to a point; said curve has a central angle of  $6^{\circ} 20' 35''$  a radius of 5693.65 feet, and a chord of 630.00 feet which bears South  $69^{\circ} 31' 04''$  East;

Thence South  $04^{\circ} 59' 05''$  East a distance of 954.06 feet to an iron pipe in the South line of Lot 19; Thence along the South line of Lot 19 South  $88^{\circ} 50' 30''$  West a distance of 638.75 feet to the true place of beginning and containing 14.9963 acres of land be the same more or less but subject to all legal highways as surveyed in June, 1980 by Donald Trocchio, Registered Surveyor No. 6445.

PPN: 23-019-00-00-018-006

#### PARCEL 2:

Situated in the Township of Mantua, County of Portage and State of Ohio:

known as being part of Lot 19 in said Township and is more fully described as follows:

Beginning at an iron rod in the West line of Mantua Township at the Southwest corner of Lot 19; Thence along the South line of Lot 19 North  $88^{\circ} 50' 30''$  East a distance of 932.20 feet to an iron pipe which is the true place of beginning for this parcel of land;

Thence North  $04^{\circ} 59' 05''$  West a distance of 954.06 feet to a point in the curved South right-of-way of the Erie Railroad Company;

Thence along said right-of-way along the arc of a curve deflecting to the right a distance of 265.33 feet to a point of tangency; said curve has a central angle of  $02^{\circ} 40' 12''$  a radius of 5693.65 feet and a chord of 265.30 feet which bears South  $65^{\circ} 00' 46''$  East;

Thence continuing along said right-of-way South  $63^{\circ} 45' 34''$  East a distance of 538.37 feet to an iron pipe;

Thence South  $00^{\circ} 44'$  East a distance of 161.66 feet to an iron pipe;

Thence South  $88^{\circ} 50' 30''$  West a distance of 350.88 feet to an iron pipe;

Thence South  $01^{\circ} 00'$  East a distance of 424.91 feet to an iron pipe in the South line of Lot 19;

Thence along the South line of Lot 19 South  $88^{\circ} 50' 30''$  West a distance of 298.85 feet to the place of beginning and containing 8.5431 acres of land be the same more or less but subject to all legal highways as surveyed in June, 1980 by Donald Trocchio Registered Surveyor No. 6445.

PPN: 23-019-00-00-018-005

#### PARCEL 3:

Situated in the Township of Mantua, County of Portage and State of Ohio:

known as being part of Lot 19 in said Township and is more fully described as follows:

Beginning at an iron rod in the West line of Mantua Township at the Southwest corner of Lot 19; Thence along the West line of Mantua Township and of Lot 19 North  $00^{\circ} 49'$  West a distance of 1269.14 feet to an iron pipe in

## EXHIBIT A

(Continued)

the South line of the Erie Railroad Company right-of-way;  
Thence along said right-of-way South  $74^{\circ} 48' 09''$  East a distance of 78.15 feet to the P.C. of a curve;  
Thence continuing along said right-of-way along the arc of a curve deflecting to the right a distance of 210.01 feet; said curve has a central angle of  $2^{\circ} 06' 48''$ , a radius of 5693.65 feet and a chord of 210.00 feet which bears South  $73^{\circ} 44' 45''$  East;  
Thence South  $01^{\circ} 40'$  East a distance of 1184.31 feet to an iron pipe in the South line of Lot 19;  
Thence along the South line of Lot 19 South  $88^{\circ} 50' 30''$  West a distance of 293.45 feet to the beginning and containing 8.0135 acres of land be the same more or less but subject to all legal highways as surveyed in June, 1980 by Donald Trocchio registered Surveyor No. 6445.

PPN: 23-019-00-00-018-007

### PARCEL 4:

Situated in the City of Aurora, County of Portage and State of Ohio and being parts of Original Lots 39 and 40 in Aurora Township and further described as follows:

Beginning at a marked stone found in the north line of O.L. 40 and the south line of O.L. 39, said stone being S  $89^{\circ} 52' 01''$  E 2044.51 feet from the northwest corner of O.L. 40 and being the northeast corner of a tract of land conveyed to Helen S. Blair by deed recorded in Vol. 849 P. 285 of the Portage County Record of Deeds; and the Grantor's northwesterly corner;

Thence S  $89^{\circ} 45' 15''$  E. 475.86 feet along the north line of O.L. 40 to a marked stone found in said north line at the southeasterly corner of a 42 acre tract of land now or formerly owned by the Cleveland Bird Club, Inc.;

Thence N  $0^{\circ} 02' 09''$  W 910.80 feet along the westerly line of said Cleveland Bird Club tract and the Grantor's westerly line to an iron bar set in said line at the southwesterly corner of a 2.98 acre tract of land now or formerly owned by the Erie Land and Improvement Co.;

Thence N  $89^{\circ} 52' 15''$  E 953.94 feet along the Grantor's northerly line and the southerly line of said 2.98 acre tract to an iron bar set in the southerly line of the Erie Railroad (100' Right-of-way);

Thence S  $74^{\circ} 25' 36''$  E. 653.30 feet along the southerly line of the Erie Railroad to an iron bar set in the east line of O.L. 39, said line being the westerly line of Mantua Township and the easterly corporation line of the City of Aurora;

Thence S  $0^{\circ} 10' 07''$  E 744.36 feet along the easterly line of O.L. 39 to an iron bar set at the southeast corner of O.L. 39 and the northeast corner of O.L. 40;

Thence S  $0^{\circ} 10' 07''$  E 523.40 feet along the easterly line of O.L. 40 to an iron bar set at the northwest corner of O.L. 25 and the southwest corner of O.L. 19 in Mantua Township;

Thence S  $0^{\circ} 12' 07''$  W 1833.39 feet along the easterly line of O.L. 40 in the City of Aurora and the westerly line of O.L. 19 in Mantua Township to an iron pipe found in the centerline of Pioneer Trail (66')(witness iron pipes found N  $0^{\circ} 00' 40''$  E 30.01 feet and S  $0^{\circ} 01' 34''$  W 31.72 feet from said point); . Thence N  $66^{\circ} 05' 08''$  W 982.83 feet along the centerline of Pioneer Trail to an iron pipe found at an angle point (witness an iron bar set N  $31^{\circ} 41' 48''$  E 33.31 feet at the angle point in the northerly right-of-way line of Pioneer Trail);

Thence N  $56^{\circ} 31' 15''$  W 328.00 feet along the centerline of Pioneer Trail to an iron bar set at an angle point in said centerline (witness iron bars set N  $1^{\circ} 20' 10''$  E 34.52 feet and N  $25^{\circ}$

$57' 05''$  E 33.29 feet front said angle point);

Thence N  $1^{\circ} 20' 10''$  E 628.97 feet parallel to the Grantor's westerly line to a point in a private lake (witness an iron bar set N  $89^{\circ} 45' 15''$  W 180.00 feet from said point);

Thence N  $89^{\circ} 45' 15''$  W 925.63 feet parallel to the north line of O.L. 40 to an iron bar set in the Grantor's

## EXHIBIT A

(Continued)

westerly line;

Thence N 1° 20' 10" E 1153.82 feet along the Grantor's westerly line to a marked stone and the place of beginning and containing 112.1896 acres of land, of which 32.0283 acres lie within O.L. 39 and 80.1613 acres lie within O.L. 40 as surveyed in November, 1976 by Kenneth W. Jensen, Registered Surveyor No. 4869, be the same more or less but subject to all legal highways.

PPN: 03-040-00-00-003-000

### PARCEL 5:

Situated in the City of Aurora, County of Portage and State of Ohio: And being a part of Original Lot 40 in Aurora Township and further described as follows: Beginning at a marked stone found in the north line of O.L. 40, said stone being S. 89 deg. 52' 01" E 2044.51 feet from the northwest corner of said O.L. 40 and being the northeast corner of a tract of land conveyed to Helen S. Blair by deed recorded in Vol. 849 P. 285 of the Portage County Record of Deeds; and the Grantor's northwesterly corner; Thence S. 1 deg. 20' 10" W 1153.82 feet along the Grantor's westerly line and the easterly line of said Blair tract to an iron bar set in said line and the true place of beginning for the parcel herein described; Thence S. 89 deg. 45' 15" E 925.63 feet parallel to the north line of O.L. 40 to a point in a private lake (witness an iron bar set N. 89 deg. 45' 15" W at 180.00 feet from said point in the lake); Thence S. 1 deg. 20' 10" W 628.97 feet parallel to the Grantor's westerly line to an iron bar set at an angle point in the centerline of Pioneer Trail (66') (witness an iron bar set N 1 deg 20' 10" E 34.52 feet from said angle point); Thence N 71 deg. 34' 36" W 590.00 feet along the centerline of Pioneer Trail to a bridge spike found at an angle point in said centerline (witness an iron bar set N 20 deg. 57' 04" E 33.03 feet from said angle point at the angle point in the northerly right-of-way line of Pioneer Trail); Thence N. 66 deg. 31' 15" W 390.00 feet along the centerline of Pioneer Trail to an iron bar set in said centerline at the Grantor's southwesterly corner (witness an iron bar set N 1 deg. 20' 10" E 35.63 feet from said corner); Thence N. 1 deg. 20' 10" E 291.00 feet along Grantor's westerly line to the true place of beginning and containing 10.0025 acres of land as surveyed in November, 1976 by Kenneth W. Jensen, Registered Surveyor No. 4869.

PPN: 03-040-00-00-003-001