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12/21/2007 11:24AM BXGAHANNA BOX
Robert G. Montgomery
Franklin County Recorder

To be recorded with Deed

Records - ORC § 317.08

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into pursuant to Ohio Revised Code (ORC) §§ 5301.80 to 5301.92 by the City of Gahanna ("the Owner"), having an address of 200 S. Hamilton Road and the Ohio Environmental Protection Agency ("Ohio EPA"), as a non-holder agency, for the purpose of subjecting certain property ("the Covenant Area") to the activity and use limitations set forth herein.

WHEREAS, the Owner is the owner in fee of certain real property which contains the covenant area and is situated in Franklin County, Ohio, in the Big Walnut watershed;

WHEREAS, The Columbus Regional Airport Authority (CRAA) has proposed to construct a certain project on certain other real property ("the CRAA Property"), also located in Franklin County, Ohio ("the Project"), which Project impacts certain surface water features located on the CRAA Property and the approvals for which project required that CRAA obtain a water quality certification pursuant to Section 401 of the Clean Water Act, 33 U.S.C. §1344 from the Ohio EPA and Section 404 Permit from the Army Corps of Engineers ("the Army Corps");

WHEREAS, in order to mitigate such impacts on the CRAA Property and as a condition of being issued the 401 water quality certification, Ohio EPA ID No. 052448 (the "401 Certification") and the 404, the Army Corps and the Ohio EPA have required that CRAA obtain mitigation property and to protect this property in perpetuity with an environmental covenant;

WHEREAS, to meet the conditions in the 401 Certification, CRAA has entered into an agreement with the Owner which provides, among other things, that CRAA will construct and implement the mitigation requirements contained in the 401 Certification and the mitigation plan on a specific area ("the Covenant Area") of the Owner's property;

WHEREAS, the Covenant Area located on the Owner's property possesses substantial value in conserving and protecting the physical, biological and chemical integrity of the proposed mitigation site and is important in the protection of the existing or designated use of the waters of the state pursuant to §303 of the Clean Water Act, 33 U.S.C. §1313 and §6111.041 of the Ohio Water Pollution Control Act. The specific conservation values (hereinafter "Conservation Values") of the Covenant Area on the Owner's Property have been documented in a document entitled Revised Wetland Mitigation Plan, Port Columbus International Airport Red Lot - Columbus, Franklin County, OH" dated June 2007 (the "Mitigation Plan").

WHEREAS, CRAA proposes to fulfill its obligation to ensure the Covenant Area and the Covenant Area's Conservation Values are protected in perpetuity by this Environmental Covenant.

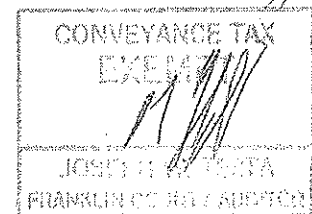
Now therefore, Owner and Ohio EPA agree to the following:

TRANSFER
NOT NECESSARY

DEC 21 2007

JOSEPH W. TESTA
AUDITOR
FRANKLIN COUNTY, OHIO

EXHIBIT A



1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to OR.C. §§ 5301.80 to 5301.92.

2. Property. This Environmental Covenant concerns a portion of an approximately 13.519 acre tract of real property known as McCorkle Park; parcel numbered 025-004340 located at Ridenour Road, in Gahanna, Franklin County, Ohio, and more particularly described in Exhibit A and B attached hereto and hereby incorporated by reference herein "the Covenant Area".

3. The Owner is the fee simple owner of the Covenant Area.

4. The Owner is the holder of this Environmental Covenant.

5. Activity and Use Limitations. As part of the conditions set forth in the 401 Certification issued to CRAA and given the conservation values of the Covenant Area, the Owner hereby imposes and agrees to comply with the following activity and use limitations:

- a. Division: Any division or subdivision of the Covenant Area is prohibited;
- b. Commercial Activities: Commercial development or industrial activity on the Covenant Area is prohibited;
- c. Construction: The placement or construction of any man-made modifications such as buildings, structures, fences, roads, parking lots, camping accommodation, mobile home, transmission or receiving tower for public utilities, energy facility, billboard, or other temporary or permanent structure or facility on, above, or below the Covenant Area is prohibited;;
- d. Cutting Vegetation: Any cutting of trees, ground cover or vegetation, or destroying by means of herbicides or pesticides on the Covenant Area is prohibited other than the removal or control of invasive and noxious species and activities that are authorized by the 401 mitigation plan approved by the Ohio EPA;
- e. Dumping: Waste, garbage and unsightly or offensive materials are not permitted and may not be accumulated on the Covenant Area; and
- f. Water Courses: Natural water courses and streams and adjacent riparian buffers may not be dredged, straightened, filled, channelized, impeded, diverted or otherwise altered on the Covenant Area.

- g. Unanticipated Use: Any unanticipated activity or use of the Restricted Property which would impair significant conservation values unless such use or activity is necessary for the protection of conservation values that are the subject of the Agreement;

6. Notwithstanding the restrictions set forth above, the following rights, uses, and activities of or by the Owner or any of its successors in interest or assigns shall be permitted:

- a. Fee Access: the right to engage in all fee accessed recreational programs or recreational uses that are not prohibited by governmental statute or regulation, not expressly prohibited herein, and not inconsistent with the purpose of this Agreement;
- b. Enhancement: selective cutting or clearing of trees or vegetation for habitat enhancement and protection, fire protection, public safety, expansion and maintenance of trails, installation of wetland boardwalk and overlooks, creation, or preservation of vistas, or otherwise to preserve the present and planned condition of the Restricted Property and not inconsistent with the mitigation plan or the purpose of this agreement;
- c. Recreation: the right to engage in any public educational activities that are not disruptive of the natural environment and are in compliance with all applicable federal, state and local statutes and regulations;
- d. Posting: the right to post all or a portion of the Restricted Property against trespassing and hunting.

7. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC §5301.85, subject to amendment or termination as set forth herein. The term "Transferee" as used in this Environmental Covenant, shall mean any future owner of any interest in the Covenant Area or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

8. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91 or other applicable law. Failure to timely enforce compliance with this Environmental Covenant or the use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any provision of this

Covenant. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law in order to protect public health or safety or the environment.

9. Rights of Access. Owner hereby grants to Ohio EPA, its agents, contractors, and employees and the Holder or its agents the right of access to the Covenant Area on the Covenant Area in connection with the implementation or Enforcement of this Environmental Covenant.

10. Compliance Reporting. Owner and any Transferee shall submit to Ohio EPA on an annual basis written documentation during the five year monitoring period verifying that the activity and use limitations remain in place and are being complied with.

11. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Covenant Area or any portion of the Covenant Area shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED, 2007, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE COUNTY RECORDER ON _____, 2007, IN [DOCUMENT ____, or BOOK ____, PAGE ____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

[Restate restrictions from Paragraph 5 of this Covenant]

Owner shall notify Ohio EPA within ten (10) days after each conveyance of an interest in any portion of the Covenant Area. Owner's notice shall include the name and address of the Transferee.

12. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner holds fee simple title to the Covenant Area which is free, clear and unencumbered;
- B. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- C. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement,

document or instrument to which Owner is a party of by which Owner may be bound or affected.

13. Amendment or Termination. This Environmental Covenant may be amended or terminated only by consent of all of the following: the Owner or a Transferee, the Holder[s], and the Ohio EPA, pursuant to ORC §5301.90 and other applicable law. "Amendment" means any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. "Termination" means the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant. Amendment or termination shall not affect the CRAA's obligations pursuant to the 401 Certification.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA, the Holder[s], and the Owner[s] or Transferee[s] of the Covenant Area or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner[s] or Transferee[s] shall file such instrument for recording with the Franklin County Recorder's Office, and shall provide a true copy of the recorded instrument to Ohio EPA.

14. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

16. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, the Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the property, with the Franklin County Recorder's Office.

17. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Covenant Area with the Franklin County Recorder.

18. Distribution of Environmental Covenant. The Owner[s] shall distribute a file-and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA; the City of Gahanna and the CRAA.

19. Notice. Unless otherwise notified in writing by or on behalf of the current owner or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

Manager, 401 Section
Division of Surface Water
Ohio EPA
P.O. Box 1049
Columbus, Ohio 43216-1049

The undersigned represent and certify that they are authorized to execute this Environmental Covenant.

IT IS SO AGREED:

OWNER:
City of Gahanna,

By: Rebecca W. Stinchcomb Rebecca W. Stinchcomb
Its: Mayor
Date: Oct. 22, 2007

State of Ohio)
County of Franklin) ss:

she Before me, a notary public, in and for said county and state, personally appeared
[he/she] a duly authorized representative of Gahanna who acknowledged to me that
[he/she] did execute the foregoing instrument on behalf of Gahanna

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my
official seal this 22 day of Oct, 2007.

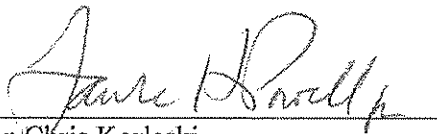
Brandi Braun
Notary

Public



BRANDI BRAUN
Notary Public, State of Oh
My Commission Expires
March 23, 2010

OHIO ENVIRONMENTAL PROTECTION AGENCY



By: Chris Korleski

Director

Date: 12-7-07

State of Ohio)
) ss:
County of Franklin)

Before me, a notary public, in and for said county and state, personally appeared LAURA POWELL, the ^{Asst.} Director of Ohio EPA, who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 7th day of 2007.

¹
DECEMBER



Notary Public

CHARMA DIANE CASTEEL
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
MAY 10, 2009

CONSERVATION EASEMENT - EXHIBIT "A"

PART OF LOT 6 "JOHN F. CONROY HEIRS SUBDIVISION"

Situated in the State of Ohio, County of Franklin, City of Gahanna, being part of Lot 6 of the "JOHN F. CONROY HEIRS SUBDIVISION," recorded in Plat Book 19, Page 34, as described in the deed to the City of Gahanna, recorded in Instrument No. 199907080173756 (record references to those of the Recorder's Office, Franklin County, Ohio), and being more particularly described as follows:

Commencing at the intersection of the westerly right-of-way line of Ridenour Road (60 feet in width), with the northerly right-of-way line of McCutcheon Road (originally 40 feet in width), as shown on said Subdivision;

thence westerly along said northerly right-of-way line of McCutcheon Road, North $86^{\circ}21'00''$ West, 89.39 feet to the TRUE POINT OF BEGINNING:

thence continuing westerly along said northerly right-of-way line of McCutcheon Road, North $86^{\circ}21'00''$ West, 90.07 feet;

thence northerly through said Lot 6, North $1^{\circ}21'25''$ East, 400.52 feet to the line common to Lots 5 and 6 of said Conroy Subdivision, and being the southerly line of "RIVERS EDGE" Subdivision, recorded in Plat Book 101, Pages 95 & 96;

thence easterly along said line common to Lots 5 and 6, being said southerly line of Rivers Edge Subdivision, South $86^{\circ}20'50''$ East; 90.07 feet;

thence southerly through said Lot 6, South $1^{\circ}21'25''$ West, 400.52 feet, returning to the 'True Point of Beginning,' containing 0.8275 of an acre of land, more or less, as described in May of 2007, by Carl E. Turner, Jr., Registered Surveyor No. 6702.

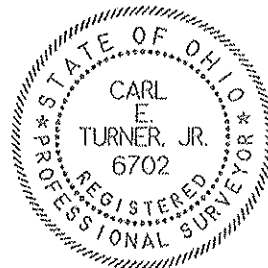
Subject, however, to all legal rights-of-way, if any, of previous record.

Reserving, unto the City of Gahanna, an easement for the 10 foot pathways shown on the plat labeled Exhibit "B," accompanying this description, bearing a revised date of 24 May 2007.

The platted bearing for the centerline of McCutcheon Road (I.e. North $86^{\circ}21'00''$ West, see Plat Book 19, Page 34) is the reference meridian for the foregoing description.



Carl E. Turner Jr.,
Professional Surveyor No. 6702
24 May 2007



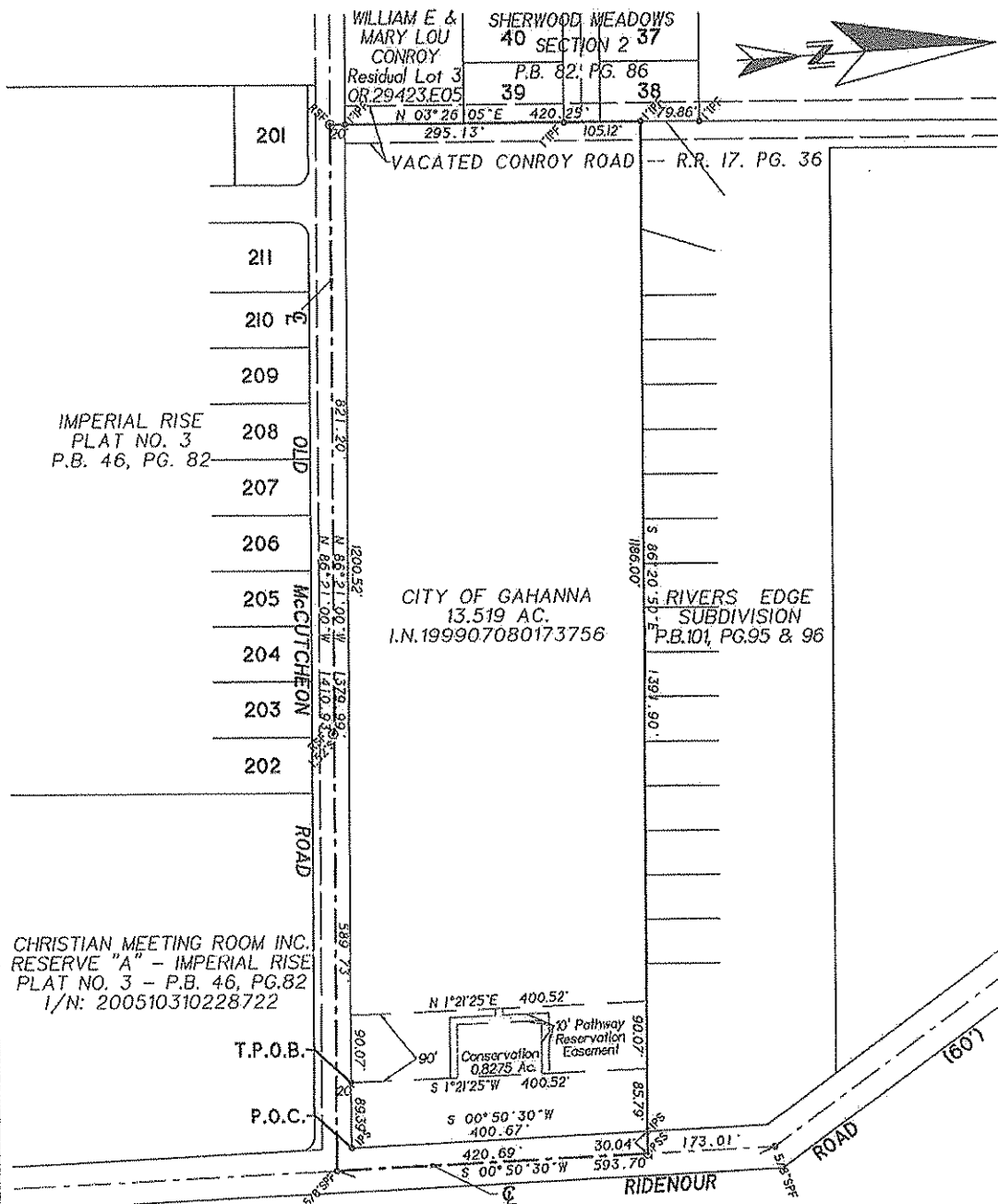
* End of Description *

**EXHIBIT "B" - CONSERVATION EASEMENT OVER PART OF LOT 6
"JOHN F. CONROY HEIRS SUBDIVISION"**
CITY OF GAHANNA, FRANKLIN COUNTY, OHIO

PREPARED EXCLUSIVELY FOR:
CITY OF GAHANNA, PARKS DEPARTMENT

8 FEBRUARY 1999 (ORIG.)
1 JULY 1999 (REV.)
24 MAY 2007 (EASEMENT)

PLAT BOOK 19 PAGE 34
INSTR. NO. 199907080173756



We Herewith Declare that the attached plat was prepared from an actual survey of the premises, that to the best of our knowledge, information and belief, correctly shows the location of the boundaries. Only those easements specifically brought to our attention, or those which we had special knowledge of are shown hereon.

BASIS OF BEARINGS: The platted bearing for the centerline of McCutcheon Road is N 86°21'00"W, see P.B. 19, Pg. 34) is the reference meridian for the attached survey.

GRAPHIC SCALE: 1"=175'
SURVEY MONUMENTS: Found (F)=O, Set (S)=O, Iron Pipe (IP), Solid Pin (SP), Rebar (R), Railroad Spike (RS), Pony Spike (PS), PK Nail & IPS=3/4" iron pipe set flush with the ground & capped with a yellow plastic plug inscribed C. TURNER/P.S. 6702.



By: *Carl E. Turner, Jr.*
CARL E. TURNER, JR.
REGISTERED PROFESSIONAL SURVEYOR No. S-6702
NOT AN AUTHORIZED DOCUMENT UNLESS
SURVEYOR'S SEAL APPEARS IN RED INK.
FIELD SURVEY BY: CT/JS
DRAWN BY: C. Turner
TERRA FILE NO. 25.11.GAH.108.07