

## **DECLARATION OF RESTRICTIONS**

This Declaration of Restrictions (this "Declaration") is made on this \_\_\_\_ day of \_\_\_\_\_ 200\_\_ by City of Gahanna [Name of Declarant], [a or an] Municipality (eg: Municipality/County/District; the "Declarant").

### Recitals:

A. Declarant owns certain property located in Franklin, 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 subject to the following:

1. This land shall never be subdivided or parceled in any way.
2. As part of the consideration for the conveyance of the premises, City of Gahanna agrees that the land shall forever be held as a nature preserve for scientific, educational and aesthetic purposes, and except as set out in this paragraph, the premises shall be kept in its natural state without disturbance of habitat or plant or animal populations, except for:

A. The construction of trails as may be necessary for the protection or enjoyment of the natural character of the premises. City of Gahanna agrees that the premises shall be preserved and managed in such manner as to accommodate public enjoyment of the nature preserve through visitation by means of a standard nature trail system, constructed of asphalt and/or natural materials. The City of Gahanna has the right to manicure (mow) a ten feet width area on each side of a paved trail to facilitate safe visitation.

- B. City of Gahanna shall have the exclusive right to establish nature trails, nature interpretation facilities (non-habitable) and other improvements in non-sensitive areas to accommodate visitation.
  - C. The construction of an accessible, scenic deck overlook(s) providing views of the ravine.
  - D. Trail construction and erection of bridges, culverts, storm drains, and utilities for the trail, including a trail security lighting system, provided said construction and erection is needed for the trail construction and occurs in non-sensitive locations, and is in keeping with the natural character of the premises to provide safe utilization of the trails.
- 3. City of Gahanna agrees to preserve and enhance the mature forest cover by means of standard non-harvest policies.
  - 4. The City of Gahanna shall have exclusive right to manage and control vegetation, remove invasive species of plants, add native species of plants, and the right to manage fish and wildlife populations.
  - 5. City of Gahanna will at all times prohibit motorized recreational vehicles within this conservation area.

**§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 observe the covenants and restrictions set forth herein, 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 that 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 Gahanna  
200 S. Hamilton Rd.  
Gahanna, OH 43230

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 \_\_ day of \_\_\_\_\_, 200\_\_.

**DECLARANT:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OHIO )

) SS

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_,  
a \_\_\_\_\_, on behalf of the \_\_\_\_\_.

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

This instrument was prepared by:

\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**

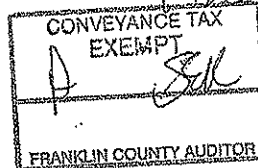
**Description of Property**

20091120163181  
Pg: 1 \$28.00 T20090002358  
11/12/2009 4:23PM BXGAHANNA BOX  
Robert G. Montgomery  
Franklin County Recorder

TRANSFERRED

NOV 12 2009

CLARENCE E. MINGO II  
AUDITOR  
FRANKLIN COUNTY, OHIO



## WARRANTY DEED

**Value Recovery Group II, LLC**, a Delaware limited liability company, for valuable consideration paid, grant(s), with general warranty covenants, to **City of Gahanna**, whose tax mailing address is 200 South Hamilton Rd., Gahanna, OH 43230, the following real property:

Situated in the City of Gahanna, County of Franklin and in the State of Ohio:

Techcenter Drive Extension and Greenspace Dedication Plat, being Reserves B, C, D, E & F recorded October 6, 2009 in Instrument No. 200910060144608, and Plat Book 112, Pages 79-84, Recorder's Office, Franklin County, Ohio.

Tax district and parcel number: ~~025-013618-00~~<sup>41</sup>, ~~025-011940-00~~<sup>013642-00</sup>, ~~025-004245-00~~<sup>027 000111-00</sup>,  
~~027-000108-00~~<sup>027-000108-00</sup>, ~~025-011178-00~~<sup>013642-00</sup>, ~~027-000108-00~~<sup>027-000108-00</sup>,  
Street address of property: Techcenter Drive, Gahanna, OH 43230 (Parcel 1) ~~027-000112-00~~

Prior deed reference: Plat Book 112, Pages 79-84, Recorder's Office, County, Ohio

Signed this 6<sup>th</sup> day of November, 2009.

Value Recovery Group II, LLC  
By: Barry Fromm  
Its: Managing Member

**STATE OF OHIO:**  
**COUNTY OF FRANKLIN, SS;**

SWORN TO BEFORE ME and acknowledged in my presence this 6<sup>th</sup> day of November, 2009 by Barry Fromm, Managing Member of Value Recovery Group II, LLC.



JULIA A. FAIST, ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date  
Section 147.03 R.C.

Notary Public

**GAHANNA TITLE BOX 09-6937**

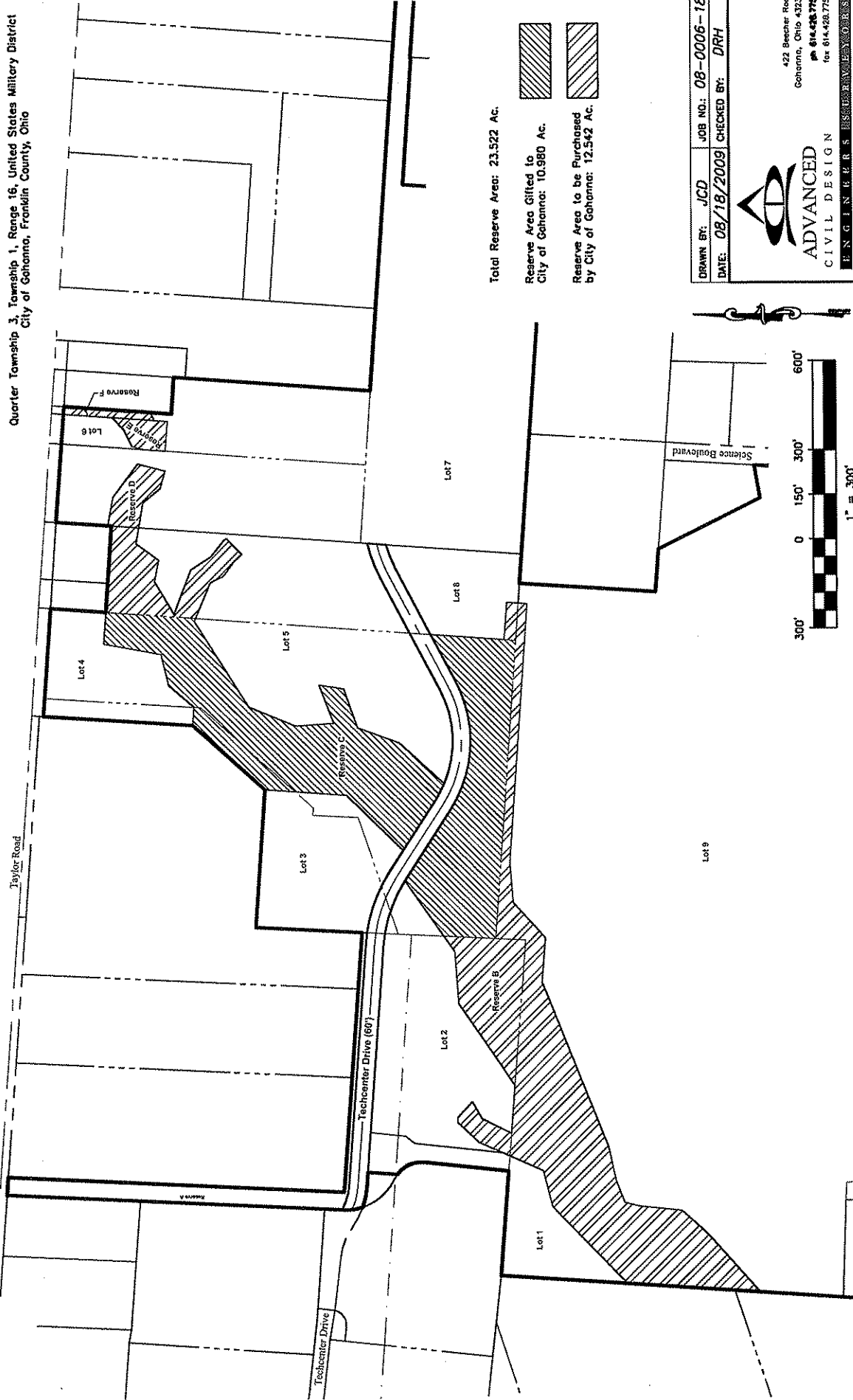
This instrument prepared by: Julia A. Faist, Attorney at Law  
142 Granville Street,  
Gahanna, OH 43230  
(614) 475-6677

**EXHIBIT A**

# Parcel Exhibit

Quarter Township 3, Range 16, United States Military District  
City of Gahanna, Franklin County, Ohio

Taylor Road



Total Reserve Area: 23.522 Ac.

Reserve Area Gifted to  
City of Gahanna: 10.980 Ac.

Reserve Area to be Purchased  
by City of Gahanna: 12.542 Ac.

DRAWN BY: JCD JOB NO.: 08-0006-188  
DATE: 08/18/2009 CHECKED BY: DRH



ADVANCED  
CIVIL DESIGN

422 Beacher Road  
Gahanna, Ohio 43230  
PH 614.428.7755  
FOR 614.428.7755

ENGINEERS & ARCHITECTS

