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 Rick Campbell 11:40AM MISC
 Stark County Recorder T20080007780

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DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration is made as of the 25th day of February, 2008, by the City of Massillon, Ohio ("Declarant" herein), a municipal corporation.

Whereas, Declarant is the owner of real property known as and being a 78.6 acre tract of land further described as follows:

Situated in the City of Massillon, County of Stark and State of Ohio:

Known as and being Outlot No. 1036, containing 38.50 acres of land, more or less, and Outlot No. 1037, containing 37.70 acres of land, more or less, as shown on the Annexation Plat recorded as Official Records Imaging No. 200701100001908 of the Stark County, Ohio Records.

Parcel No. 05-04836; 05-04837; 05-04838.

Prior Deed Reference: Imaging No. 200801110001435 of the Stark County Official Records.

Whereas, Declarant acquired the said real property with grants received by Declarant from the Ohio Department of Natural Resources and the Ohio Public Works Commission; and

Whereas, Declarant is required to submit the property to certain covenants, conditions and restrictions as set forth in this Declaration as a condition of said grants.

Whereas, Declarant has become the fee simple owner of said real property by virtue of a General Warranty Deed recorded as Instrument No. 200801110001435 of the Stark County Official Records on January 11, 2008.

Now therefore Declarant declares that all of the real property owned by Declarant by virtue of said Deed shall be held, occupied, used and conveyed subject to this Declaration.

1. **Limitation of Use. The property identified above has been acquired or developed with federal assistance provided by the National Park Service of the Department of the Interior in accordance with the Land and Water Conservation Fund Act of 1965, as amended, 16 U.S.C. 4601-5 et seq. (170 ed.). Pursuant to a requirement of that law, this property may not be converted to other than public outdoor recreation uses (whether by transfer, sale, or in any other manner) without the express written approval of the Ohio Department of Natural Resources, Division of Real Estate and Land Management and the secretary of the Department of the Interior. By law, the secretary shall approve such conversion only if it is in accord with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP)**

and only upon such condition as the substitution of other recreation properties are of at least equal fair market value and of reasonably equivalent usefulness and location.

2. 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:

The approximately 78.6 acres of land is to be preserved as Green Space and future Park Land for the residents of Western Stark County.

3. 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 the Ohio Public Works Commission ("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.
4. 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.
5. 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.
6. 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.

7. 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 giving 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 Massillon
151 Lincoln Way East
Massillon, OH 44646
Attn: Director of Public Service and Safety

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

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

Executed on 2-25-08, 2008, by Michael J. Loudiana.

CITY OF MASSILLON

By: Michael J. Loudiana
MICHAEL J. LOUDIANA,
Director of Public Service and Safety

STATE OF OHIO
SS:
STARK COUNTY

The foregoing instrument was acknowledged before me on February 25, 2008, by Michael J. Loudiana, Director of Public Service and Safety of the City of Massillon, Stark County, Ohio, a municipal corporation.

Mary Ann Coyne
Notary Public

MARY ANN COYNE
NOTARY PUBLIC, STATE OF OHIO
MY COMM. EXPIRES APR. 13, 2010

Prepared by Pericles Stergios
MASSILLON LAW DIRECTOR