

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement (“**Agreement**”) is made as of the ____ day of _____, 2021, by and between West Creek Conservancy, an Ohio non-profit corporation (“**Grantor**”) and City of Parma, Ohio (“**Grantee**”). Grantor and Grantee are sometimes herein individually called “**Party**” or together, “**Parties**”.

RECITALS:

- A. Grantor owns that certain real property located at 7278 Thorncliff Boulevard, Parma, Ohio which is designated as PPN 452-17-001, depicted on the map attached hereto as Exhibit A and legally described on Exhibit B also attached hereto (“**Grantor’s Property**”).
- B. Grantor desires to grant and Grantee desires to receive from Grantor a non-exclusive perpetual access easement over, under and across Grantor’s Property for ingress and egress between Thorncliff Boulevard and Grantee’s property located northerly of Grantor’s Property designated as PPN 452-14-020 (“**Grantee’s Property**”) upon the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, for and in consideration of the Recitals which are deemed an integral part of this Agreement, the mutual covenants contained herein and other valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereby agree as follows:

1. Grant of Easement.

On the terms and conditions hereinafter set forth, Grantor grants and conveys to Grantee, its successors and assigns, and Grantee accepts a perpetual, non-exclusive access easement (“**Access Easement**”) on, over, under and across that portion of Grantor’s Property as generally depicted on Exhibit C attached hereto (“**Access Easement Area**”). Grantee may use the Access Easement for ingress and egress to the Keystone-Sprague sanitary sewer



system on Grantee's Property, for its use and for use by its officers, employees, lessees, sub-lessees, licensees, contractors, agents, customers, guests, invitees, governmental officials and representatives, and such other entities or individuals as may be required or as Grantee may deem advisable including all necessary vehicles, machinery, equipment, and labor. The Access Easement on Grantor's Property has been partially improved pursuant to the existing driveway which Grantee may further extend and improve as Grantee deems necessary for Grantee's use.

2. Term of Easement Rights. The Access Easement and the rights hereunder with respect thereto shall be perpetual unless terminated in writing by Grantor and Grantee, whereupon the parties shall be released from all liabilities otherwise thereafter accruing hereunder with respect thereto; provided, however, that each party agrees to execute all documents and take all other actions reasonably requested by the other party in connection therewith to evidence, whether of record or otherwise, such termination.
3. Noninterference. Any use of Grantor's Property by Grantor, or its successors or assigns, shall not interfere with, or restrict the use by, Grantee, or its successors or assigns, contemplated by this Agreement. Without limiting the generality of the foregoing, Grantor agrees not to construct, erect, or maintain, or cause or permit to be constructed, erected or maintained, any building or other structure, barrier, fence, or obstruction, including without limitation trees or other vegetative cover, whether permanent or temporary, that would impede or interfere with the free flow of vehicular, or pedestrian passage, travel, or traffic in, on, over, under, and across the Access Easement.
4. Covenants Running With the Land. The Access Easement and the rights hereunder with respect thereto are intended to be, and shall be construed as, covenants (and not conditions) running with the land declared herein for the benefit of Grantee, binding upon Grantor, and its successors and assigns, and inuring to the benefit of, and enforceable in law and at equity by, Grantee, and its successors and assigns.
5. Insurance. Grantee shall maintain or cause to be maintained for Grantee's use of the Property, commercial general liability insurance (or its equivalent) against claims on account of death, bodily injury or property damage that may arise from or be occasioned during such usage, together with a contractual liability endorsement. Said insurance shall be maintained by a reputable insurance company or companies qualified and admitted in the State of Ohio. Such policy shall be for single minimum limits of not less than \$2,000,000. Such insurance, shall name Grantor as an additional insured thereunder. Such insurance shall provide that the insurance may not be cancelled without at least 10 days' prior written notice being given by the insurer to the Grantor. Grantee shall furnish to the Grantor certificates of insurance evidencing the existence of the insurance required to be carried pursuant to this paragraph prior to entry upon Grantor's Property. All policies of

insurance shall provide that such coverage shall be primary and that any insurance maintained separately by Grantor shall be excess insurance only.

6. Reservation of Rights by Grantor.

- A. Grantor reserves the right to use the Access Easement for any and all purposes not expressly prohibited herein and further provided the same shall not prevent or interfere with Grantee's full use and enjoyment of Access Easement as provided herein.
- B. Grantor shall retain the right to maintain, repair and replace the Access Easement Area as may be necessary or appropriate for Grantor's purposes.
- C. Grantor shall have the right, upon agreement with Grantee, to relocate the Access Easement Area onto other portions of the Grantor's Property at any time and from time to time upon the condition that:
 - i. such relocation shall not materially interrupt, interfere with or diminish Grantee's usage of the Access Easement (except temporarily as reasonably necessary to permit the construction of the relocated Access Easement);
 - ii. all costs and expenses of such relocation shall be borne by Grantor; and
 - iii. upon the completion of the relocation work, Grantor shall record an instrument describing the change in location of the Access Easement Area.

7. Reciprocal Indemnities. Each Party shall indemnify and hold the other harmless (except for loss or damage resulting from the tortious acts of the other Party and its permittees) from and against any and all claims, actions, suits, judgments, damages, liability and expense, including reasonable attorneys' fees, in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon the Access Easement Area, or occasioned wholly or in part by any act or omission of such Party and/or its permittees, whether or not pursuant hereto or resulting from the exercise of the easement rights set forth herein.

8. Notices. All notices, requests, demands, and other communications in connection with this Agreement shall be made in writing and shall be deemed to have been given when hand delivered or upon deposit at any general or branch United States Post Office by registered mail, postage prepaid, or addressed:

If to Grantee, to:

City of Parma
6611 Ridge Road
Parma, Ohio 44129

If to Grantor, to:

West Creek Conservancy
P.O. Box 347113
Parma, Ohio 44134

Or such other addresses as may be set forth by either party in a written notice delivered in accordance herewith.

9. Entire Agreement. This Agreement constitutes the entire agreement between Grantor and Grantee with respect to the subject matter hereof and supersedes any and all prior or contemporaneous negotiations, understandings, or agreements, written or oral, with respect thereto.
10. Modification/Waiver/Assignment. No modification of this Agreement, and no waiver of any provision hereof, shall be effective or binding upon Grantor or Grantee unless set forth in writing authorized and executed by Grantor and Grantee, or their successors or assigns, with the same formality as this Agreement and recorded in the Cuyahoga County, Ohio, Records. Grantee shall have the right to transfer the perpetual Access Easement to any conservation organization responsible for the conservation purposes under the laws of the State of Ohio that agrees to the terms, conditions, restrictions, and purposes of this Agreement.
11. Severability. If any provision of this Agreement shall or become invalid or unenforceable by judgment, court order, legislative mandate, or otherwise, then this Agreement shall be divisible as to such provision, and all other provisions hereof shall remain in full force and effect as though such provision were not included herein.
12. Recording/Further Assurances. This Access Easement will be filed and recorded with the Cuyahoga County Recorder's Office by Grantor. Grantor and Grantee respectively agree that each will execute and deliver to the other from time to time any and all documents that either party reasonably may request in order to effectuate the provisions of this Agreement. Grantor agrees that the terms, conditions, restrictions, and purposes of the Access Easement will either be referred to or inserted in any subsequent deed, or other transfer instrument, by which the Grantor transfers title or possessory interest in Grantor's Property.

Furthermore, Grantor agrees that if a new plat plan is being done for Grantor's Property, the Access Easement will be referred to on the registered plat plan.

13. Governing Law. This Agreement shall be governed by the laws of the State of Ohio.
14. Third-Party Rights. Nothing herein expressed or implied is intended or shall be construed to confer upon any other entity, other than as herein set forth, any rights or remedies under, or by reason of, this Agreement.
15. Counterparts. This Agreement may be executed in multiple counterparts and shall be effective when such counterparts are executed by and delivered to all signatory Parties. Such counterparts shall be taken to be one and the same original document with the same effect as if all Parties hereto had signed the same document. Any executed signature page of this Agreement (together with any separate acknowledgement page) may be detached from any counterpart and attached to another counterpart containing the signature pages (and any acknowledgement pages) with the signatures (and acknowledgements) of all other signatory Parties to this Agreement.

[SIGNATURE PAGE FOLLOWS]

Grantor: West Creek Conservancy

Grantee: City of Parma

By: _____
Derek Schafer, Executive Director

By: _____

Its: _____

Date: _____

Date: _____

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Derek Schafer, the Executive Director of West Creek Conservancy, an Ohio non-profit corporation, on behalf of the corporation.

Notary Public
My Commission Expires _____

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, the _____ of the City of Parma, on behalf thereof.

Notary Public
My Commission Expires _____

This Instrument was Prepared by:
Christopher E. Soukup
Ziegler Metzger LLP
1111 Superior Avenue, Suite 1000
Cleveland, Ohio 44114
216.781.5470
ces@zieglmetzger.com

MAP

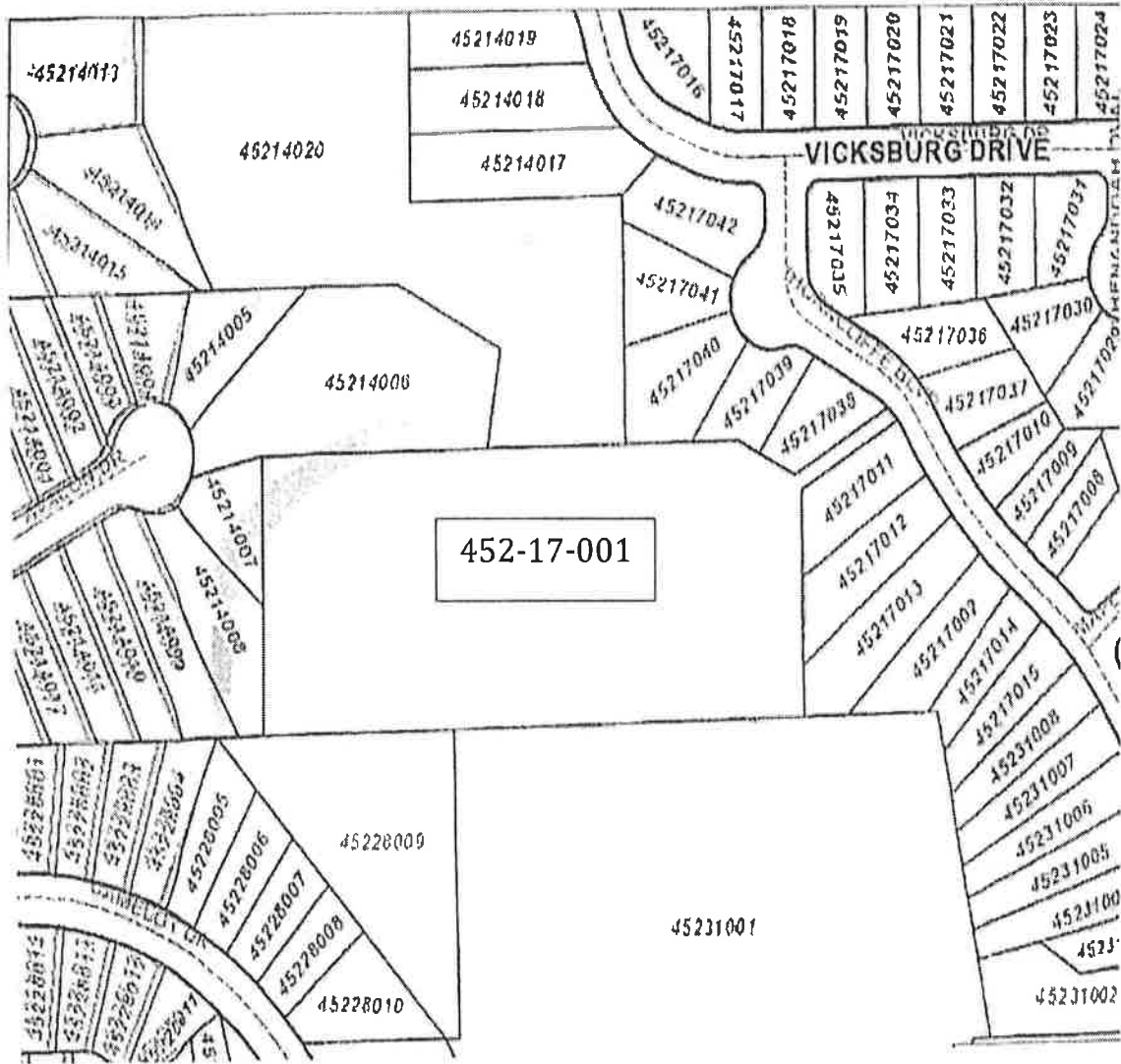


EXHIBIT A

LEGAL DESCRIPTION OF GRANTOR'S PROPERTY

PPN: 452-17-001

SITUATED IN THE CITY OF PARMA, COUNTY OF CUYAHOGA AND STATE OF OHIO;
AND KNOWN AS BEING SUBLOT NO. 2 IN THE DANIEL C. BRAUN SUBDIVISION OF
PART OF ORIGINAL PARMA TOWNSHIP LOT NO. 29, ELY TRACT, AS SHOWN BY THE
RECORDED PLAT IN VOLUME 232 OF MAPS, PAGE 70 OF CUYAHOGA COUNTY
RECORDS AS APPEARS BY SAID PLAT, BE THE SAME MORE OR LESS, BUT SUBJECT
TO ALL LEGAL HIGHWAYS.

EXHIBIT B

GRANTOR'S PROPERTY

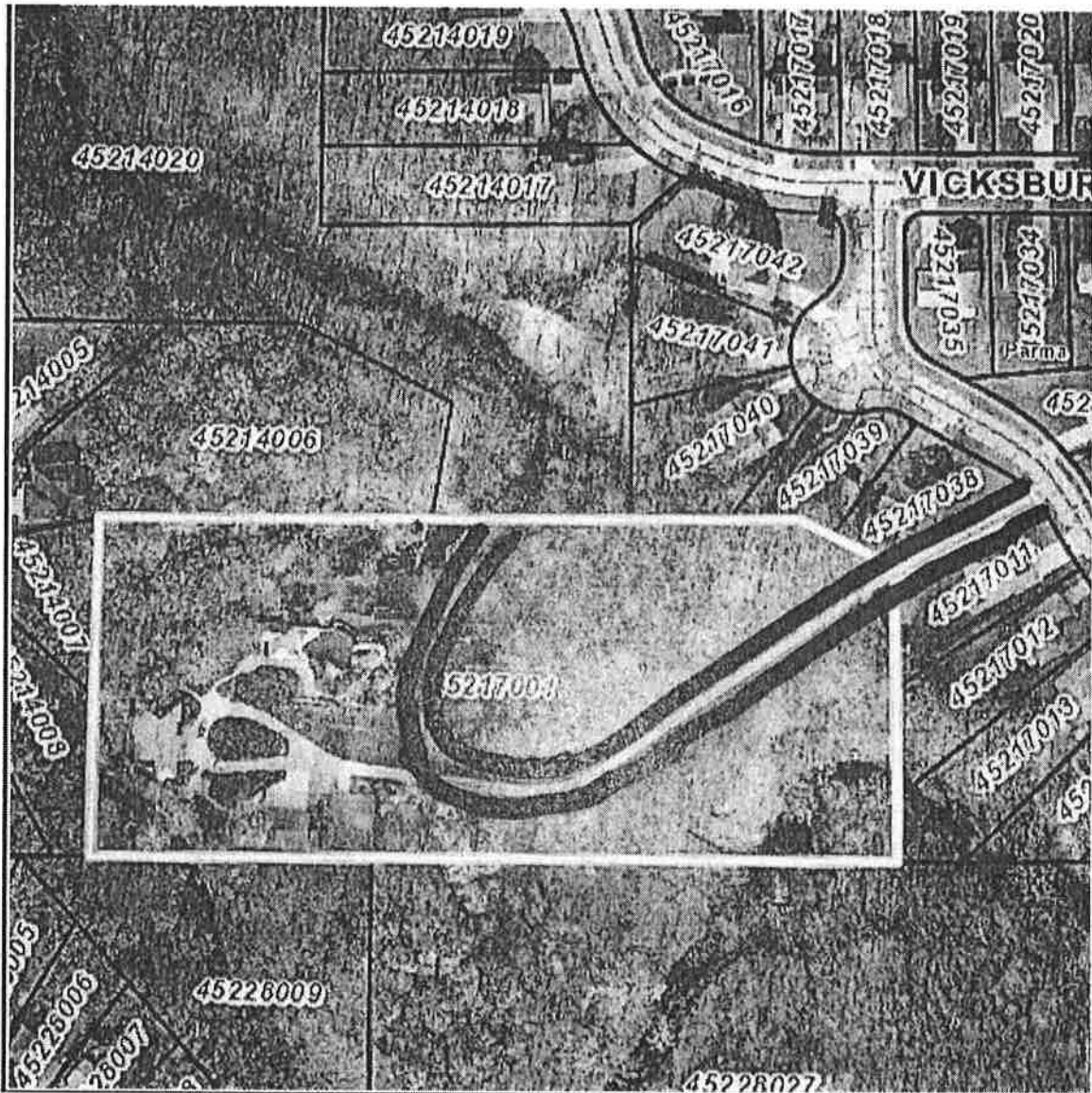


EXHIBIT C