

Sponsor: Mayor, Kudley, Wolf
This is not a Revision to the Codified Ordinances

CITY OF AURORA
OHIO

ORDINANCE 2023-104

PROPOSED AMENDMENT 9-16-2024

INTRODUCED BY: John G. Kudley, Jr.

SECONDED BY: Scott Wolf

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT OF SALE AND TRANSFER WITH ICP GEAUGA LAKE LLC, SUBSTANTIALLY IN THE FORM ATTACHED HERETO, FOR THE PURCHASE OF APPROXIMATELY 40 ACRES OF LAND AND APPROXIMATELY 53.63 ACRES OF A BODY OF WATER KNOWN AS GEAUGA LAKE AND ACCEPTING AN EASEMENT AROUND THE LAKE KNOWN AS THE "LAKE LOOP" FOR THE PURCHASE PRICE OF \$4,500,000.00 PLUS APPLICABLE ACQUISITION RELATED, DUE DILIGENCE AND CLOSING COSTS NOT TO EXCEED \$140,000.00, FURTHER AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE ALL APPLICABLE AGREEMENTS, EASEMENTS AND OTHER DOCUMENTS IN CONNECTION WITH THE PURCHASE OF THE PROPERTY, TAKING \$3,341,525.37 FROM THE CITY OPERATIONS FUND (52) AND TAKING \$1,298,474.63 FROM THE LOCAL CORONAVIRUS RELIEF FUND (23)

WHEREAS, in 2020 ICP Geauga Lake LLC purchased the subject property formerly known as the Geauga Lake Amusement Park and Sea World; and

WHEREAS, the lake and the subject parcels are located in Portage and Geauga Counties with approximately 31 acres in Portage County adjoining Geauga Lake and approximately 9 acres in Geauga County (Bainbridge Township) adjoining Geauga Lake which consists of approximately 53.63 acres of a body of water; and

WHEREAS, the City of Aurora desires to utilize the property for public park use and other related activities consistent with park purposes, recreation and entertainment for the public; and

WHEREAS, the city will have ownership of the lake, with the right to determine all points of access to the lake and rules and regulations for use of the lake; and

WHEREAS, the city will have the right to charge fees for use of certain facilities and privileges; and

WHEREAS, the city will have control of an easement around the lake for maintenance, safety, etc. of the lake; and

WHEREAS, the city will maintain a 30-foot easement for a recreational trail around the lake which the city is not required to build and the lake itself; and

WHEREAS, the city will grant an easement to Bainbridge Township for access to and use of the lake by its residents, subject to the city's point of access and usage rules; and

WHEREAS, the terms of the sale are further detailed in the Agreement of Sale and Transfer, substantially in the form attached hereto; and

WHEREAS, \$3,341,525.37 shall be taken from the City Operations Fund (52), and \$1,298,474.63 shall be taken from the Local Coronavirus Relief Fund (23);

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Aurora, County of Portage, State of Ohio, that:

Section 1. City Council hereby authorizes the Mayor to enter into an Agreement of Sale and Transfer with ICP Geauga Lake LLC, substantially in the form attached hereto, for the purchase of approximately 40 acres of land and approximately 53.63 acres of a body of water known as Geauga Lake and further accepts an easement around the lake known as the "Lake Loop" for the purchase price of \$4,500,000.00 plus applicable acquisition related, due diligence and closing costs not to exceed \$140,000.00, and further authorizes the Mayor to enter into and execute all applicable agreements, easements and other documents in connection with the purchase of the property.

Section 2. \$3,341,525.37 shall be taken from the City Operations Fund (52), and \$1,298,474.63 shall be taken from the Local Coronavirus Relief Fund (23).

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance shall take effect and be in force after the earliest time provided by law.

Adopted: September 16, 2024 Approved: September 16, 2024
Effective: October 16, 2024 By: Ann Womer Benjamin
Ann Womer Benjamin, Mayor

ADOPTED 8-0

Also see ord. 2024-128

Attest:

Marie Lawrie
Marie Lawrie, Clerk of Council

Approved as to legal form by:

Dean DePiero
Dean DePiero, Director of Law

CERTIFICATE OF POSTING


I, Marie Lawrie, do hereby certify that I am the duly appointed and acting Clerk of Council of the City of Aurora, Ohio, and that the foregoing Ordinance was published in the City of Aurora as required by law by posting a true and exact copy thereof at the six (6) public posting places as established by Ordinances 1976-10 and 1992-107 and amended by Ordinances 1998-76, 2000-74, and 2014-078.

- 1) City Hall
- 2) Heinen's Grocery Store, Barrington Town Square
- 3) Fire Station No. 2
- 4) Aurora Memorial Library
- 5) U.S. Post Office, Village Commons Shopping Center
- 6) City Website

Such posting was for a period of fifteen (15) days commencing on the 17 day of

September, 2023.

Signed this 17 Day of September, 2023.


Clerk of Council
City of Aurora

AGREEMENT OF SALE AND TRANSFER

This Agreement of Sale and Transfer ("**Agreement**") is made this ____ day of October, 2024, by **ICP GEAUGA LAKE LLC**, an Ohio limited liability company, or its assignee ("**Seller**"), and **CITY OF AURORA**, an Ohio municipal corporation ("**Buyer**").

RECITALS:

- (A) Seller is the owner, in fee simple, of those certain parcels of real property consisting of: (i) approximately 40 acres of land (the "**Land**"), and (ii) a body of water known as Geauga Lake consisting of approximately 53.63 acres (the "**Lake**"), situated in: (a) the City of Aurora, County of Portage, State of Ohio, and (b) the Township of Bainbridge, County of Geauga, State of Ohio, which parcels are more fully described on legal descriptions that, after the Effective Date, will be inserted on Exhibit A attached hereto and made a part hereof (collectively, the "**Property**");
- (B) The Property is depicted on Exhibit B attached hereto and made a part hereof;
- (C) Seller is a party to that certain Operating and Reciprocal Easement and Restrictive Covenant Agreement dated as of November 15, 2021, and recorded on December 15, 2021, in OR Book 2142, Page 386 in Geauga County, Ohio Records, (the "**REA**"), which REA encumbers a portion of the Land located in Geauga County;
- (D) Prior to the Closing Date (as defined in **Section 10.1**), the parties will enter into another agreement to ensure connectivity of any recreational trail constructed on the Property with Seller's adjacent property and to grant Seller certain utility rights in form and substance agreed upon by the parties substantially similar to that attached as Exhibit F (the "**Portage Covenant**") that will be recorded in the Portage County, Ohio Records and will encumber all or a portion of the Land located in Portage County;
- (E) The Property is subject to certain encumbrances, some of which arise from Seller's involvement in that certain litigation captioned as *Industrial Commercial Properties, LLC, et al. v. Bainbridge Township Board of Trustees*, Case No. 21M000337 in the Geauga County Court of Common Pleas, which litigation resulted in a Consent Judgment Entry dated October 21, 2021, as amended (the "**CJE**");
- (F) The parties intend for the Seller to retain certain obligations outlined in the CJE, including, but not limited to, the construction of a recreational trail within the Lakefront Zone Easement Area (as such term is defined in the REA) as depicted on Exhibit C attached hereto and made a part hereof (the "**Lake Loop**"), which Lake Loop has not yet been constructed and is shown in conceptual planning stage, provided, however, that Buyer may elect to construct the portions of the recreational trail located within the Land;

- (G) To facilitate access to the Land after the Lot Split (defined herein) is complete, Seller and Buyer also desire to grant to each other by separate document a reciprocal access easement over the Property and Seller's adjacent property, as applicable, for the benefit of the other's surrounding property over the area depicted on Exhibit G, attached hereto and made a part hereof (the "**Access Easement**").
- (H) Upon the terms and conditions set forth below, Seller desires to transfer the Property to Buyer, and Buyer desires to accept such transfer of the Property from Seller.

NOW THEREFORE, in consideration of the mutual covenants and agreements of each party to the other and other valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the parties, intending to be bound by this Agreement, do mutually covenant and agree as follows:

ARTICLE 1 INCORPORATION BY REFERENCE

Section 1.1. Incorporation by Reference. The Preamble and the Recitals set forth above and the Exhibits referred to in this Agreement are incorporated into this Agreement as though the same were fully set forth in this Agreement.

ARTICLE 2 PURCHASE AND SALE

Section 2.1. Purchase and Sale; Effective Date. Seller agrees to sell, grant, convey, transfer and assign the Property to Buyer, and Buyer agrees to purchase and receive the Property from Seller, including the hereditaments and appurtenances thereto, subject to and pursuant to the provisions set forth in this Agreement.

The effective date of this Agreement ("**Effective Date**") shall be the date of full execution of this Agreement.

Section 2.2. Transfer. The portion of the Land and Lake that is situated in each of Geauga County and Portage County shall be sold, granted, conveyed, and transferred from Seller to Buyer by Limited Warranty Deeds (each, a "**Deed**" and collectively, the "**Deeds**") in a form substantially similar to that attached hereto as Exhibit D. The Deeds shall convey title to the Property, free and clear of all liens, adverse claims, encumbrances, reservations, restrictions, charges, equities, rights-of-way and exceptions, except for any Permitted Encumbrance (as defined in **Section 4.2**) and shall appropriately reserve to Seller certain of the obligations of the CJE such as Seller's insurance obligations, indemnification obligations, and construction obligations with respect to the Land situated in Bainbridge Township ("**Seller's CJE Obligations**"). For the avoidance of doubt, the parties intend that Seller, not Buyer, will be obligated to satisfy Seller's CJE Obligations, and Buyer will assume all maintenance, repair and replacement obligations with respect to the Lake Areas (as such term is defined in the CJE) upon Seller's completion of the Lake Loop construction. Buyer and Seller acknowledge and agree that Buyer intends to construct certain improvements

subsequent to the Closing Date, which improvements may satisfy some of Seller's CJE Obligations, notwithstanding the fact that Buyer is not obligated to construct such improvements.

If the portion of the Land and the portion of the Lake in Geauga County and/or the portion of the Land and the portion of the Lake in Portage County are not each comprised of a separate tax parcel in such county, then Seller shall, at its sole cost and expense prior to Closing (as defined in **Section 10.1**), complete the Lot Split (as defined in **Section 12.14**).

ARTICLE 3 PURCHASE PRICE

Section 3.1. Purchase Price. The purchase price for the Property to be sold by Seller and purchased by Buyer under this Agreement shall be Four Million Five Hundred Thousand and 00/100 Dollars (\$4,500,000.00) ("**Purchase Price**"), subject to **Section 12.16(B)**. Within fifteen (15) days after the Effective Date, Seller shall select a qualified appraiser who meets the requirements of Internal Revenue Code Section 170(f)(11)(E)(ii) and the related Treasury Regulations ("**Qualified Appraiser**"). Such Qualified Appraiser shall provide a qualified appraisal as defined in Internal Revenue Code Section 170(f)(11)(E)(i) and the related Treasury Regulations ("**Qualified Appraisal**") that will establish the fair market value of the Property. If the fair market value of the Property, as determined by the Qualified Appraisal, is greater than the Purchase Price, the excess shall be considered a contribution made to Buyer by Seller and the transaction shall be treated as a "Bargain Sale" as that term is used in Treasury Regulations Section 1.170A-4(c)(2)(ii). The Qualified Appraisal and all documents in connection thereto are the Seller's documents and are for the Seller's own use and are not the property of the Buyer.

Section 3.2. Payment of Purchase Price. The Purchase Price shall be payable by Buyer to Seller as follows:

- (A) Within five (5) days of full execution of this Agreement, Buyer shall deliver to First American Title Insurance Company, Skylight Office Tower, 1660 West 2nd Street, Suite 650, Cleveland, Ohio 44113 ("**Title Company**"), a deposit in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) ("**Escrow Funds**"). The Escrow Funds shall be made via cashier's check payable to Title Company or shall be made via wire transfer. The Escrow Funds shall be placed in an escrow account and shall be released by Title Company as provided in this Agreement.
- (B) At Closing, Buyer shall deliver to Title Company the balance of the Purchase Price, subject to credits and/or prorations as set forth in this Agreement.

ARTICLE 4 DUE DILIGENCE

Section 4.1. Due Diligence. Buyer has completed significant due diligence on the Property, and may conduct additional due diligence up to the Closing Date. Buyer hereby

acknowledges and agrees that it will have no right to terminate this Agreement as a result of any due diligence investigations. Buyer further acknowledges and agrees that all due diligence investigations performed by or on behalf of Buyer concerning the Property will be at Buyer's sole cost and expense.

Seller shall permit Buyer and Buyer's agents, employees, contractors, and consultants (collectively, "**Consultants**") the right, upon not less than 24 hours' prior notice to Seller, to access the Property for the purpose of inspecting the Property and conducting all of Buyer's desired due diligence, subject to the following: (i) Buyer and its Consultants shall promptly pay when due the costs of all tests, investigations, studies and examinations done with regard to the Property and shall not permit any liens to attach to the Property by reason of the exercise of its rights hereunder; and (ii) Buyer and its Consultants shall fully restore the Property to the condition that existed before any such inspections, tests or studies were undertaken, reasonable wear and tear excepted. Buyer assumes full responsibility and liability for any and all claims, fees, costs or expenses (including without limitation, reasonable attorneys' fees and consulting fees) of any kind whatsoever, arising out of any injury to any person (whether employees or agents of Buyer or otherwise) and for any damages to any property arising from or related to any or all of Buyer's inspections and/or testing of the Property or other access to the Property prior to Closing. Buyer shall promptly repair any damage to the Property arising from or related to any or all of Buyer's inspections and/or testing of the Property or other access to the Property prior to Closing. Buyer shall carry a minimum of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) in the aggregate, in general liability insurance and shall name Seller as an additional insured to the extent of claims arising out of Buyer's negligent acts or omissions with respect to work performed or inspections at the Property. Certificates of insurance to provide evidence of the above coverage will be provided to Seller within seven (7) days of the date of this Agreement. All such insurance will remain in full force and effect as of the date of and for the entire term of this Agreement. The obligations pursuant to this paragraph shall survive termination of this Agreement.

Section 4.2. Title Matters. Upon the parties' execution of this Agreement, Seller shall immediately order a commitment ("**Title Commitment**") to issue an owner's title insurance policy for the Property from Title Company. Title Company shall simultaneously deliver copies of the Title Commitment, the vesting deed(s), and all documents referenced therein, to Seller and Buyer within thirty (30) days after the Effective Date. In addition, within thirty (30) days after the Effective Date, Buyer shall, at its sole expense, have the right to obtain an ALTA survey ("**Survey**") of the Property in form and substance satisfactory to Buyer and prepared by a surveyor acceptable to Buyer. The Title Commitment and the Survey are subject to review and approval by Buyer within fifteen (15) days after Buyer's receipt of the Title Commitment or the Survey, whichever is later. If Buyer objects to any such title exceptions or survey matters that would materially and adversely affect Buyer's intended use of the Property ("**Unpermitted Encumbrances**"), Buyer must deliver written notice of any such objection to Seller within such 15-day period ("**Objection Notice**"). Any and each such non-monetary title exception or survey matter to which Buyer does not object in writing to Seller within such 15-day period shall thereafter constitute a "**Permitted Encumbrance**." Upon Seller's receipt of the Objection Notice, Seller shall then have a 15-day period in which to cause the removal or correction of the Unpermitted Encumbrances (it being understood that Seller may, but shall not be required to, remove any

Unpermitted Encumbrance). If Seller fails to cause the removal or correction of the Unpermitted Encumbrances within said 15-day period, Buyer may elect, upon written notice to Seller to be received by Seller within fifteen (15) days after the expiration of such 15-day period, to accept title as it then is, in which event all exceptions in Schedule B of the Title Commitment, including without limitation, the Unpermitted Encumbrances set forth in the Objection Notice and not removed or corrected by Seller, shall become Permitted Encumbrances. If Buyer does not elect within such 15-day period to accept all such Unpermitted Encumbrances in accordance with the foregoing provisions, this Agreement shall terminate, Title Company shall return the Escrow Funds to Buyer and, except as otherwise expressly provided in this Agreement, neither party shall have any further rights or obligations under this Agreement. Notwithstanding the foregoing, in no event shall any monetary lien, mortgage, or other monetary encumbrance become a Permitted Encumbrance.

ARTICLE 5 DOCUMENTS TO BE MADE AVAILABLE BY SELLER

Section 5.1. Property Documents. Prior to the execution of this Agreement, Seller has provided, or made available, to Buyer, to the extent in Seller's possession or readily available to Seller, for Buyer's review in connection with Buyer's due diligence pursuant to **Article 4**, a copy of the following: any existing title policy; any existing surveys; all zoning, wetlands, environmental, structural, mechanical, and/or geological site assessments and/or reports; property tax statements; all maintenance files and/or logs; any other material non-proprietary documents, reports, and/or analyses concerning the Property; and any estimates, quotes, and/or proposals obtained concerning any maintenance, repairs, capital improvements, and/or capital expenditures not yet completed (collectively "**Property Information**"). No representation or warranty, express or implied, is or will be made with respect to the fairness, accuracy or completeness of any of the Property Information or any other information provided by Seller to Buyer in connection with the sale of the Property. Any use of or reliance upon the Property Information by Buyer is made at Buyer's sole risk and Seller shall have no liability in connection therewith.

ARTICLE 6 COSTS

Section 6.1. Title Costs. Seller shall be responsible for all costs and expenses related to the Title Commitment as set forth above in Article 4, one-half (1/2) of the costs of the title exam, and one-half (1/2) of the costs of the base premium for the owner's title insurance policy in the amount of the Purchase Price. Buyer shall be responsible for one-half (1/2) of the costs of the title exam, and one-half (1/2) of the costs of the base premium for the owner's title insurance policy in the amount of the Purchase Price, plus the full cost of any endorsements, any lender's insurance, and any coverage in excess of the Purchase Price. Subject to the provisions of **Section 4.2**, Seller shall be responsible for all matters of Seller's title clearance including Seller's investigation and payment of delinquent taxes, special assessments and the clearance of tax or other liens of record.

Section 6.2. Other Costs. The cost of all real estate transfer taxes and conveyance fees shall be paid by Seller. Seller shall be responsible for the cost of preparing four (4) Deeds and all recording fees and expenses related to the filing of four (4) Deeds. Buyer shall be responsible for

all recording fees and expenses related to any mortgage and other lender documents. The escrow fee, if any, charged by Title Company shall be split equally between Buyer and Seller. The cost of the Survey shall be paid by Buyer.

ARTICLE 7 POSSESSION

Section 7.1. Possession. Seller shall deliver exclusive possession of the Property to Buyer immediately after Closing on the Closing Date, which possession shall be subject only to any Permitted Encumbrances. Notwithstanding the foregoing, for a period of up to three (3) months after the Closing, Seller shall have the right to continue to use the office of Seller's property manager in the building currently occupied by the property manager at the Property.

ARTICLE 8 REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AND BUYER

Section 8.1. Seller's Representations and Warranties. Seller hereby represents, warrants and covenants to Buyer that, as of the date of this Agreement and as of the Closing Date:

- (A) Seller is an Ohio limited liability company validly existing and in good standing under the laws of the State of Ohio and has all requisite power and authority to own, transfer, and sell the Property.
- (B) The execution, delivery, and performance of this Agreement by Seller have been duly and validly authorized in accordance with its governance documents, and this Agreement is a valid and binding obligation of Seller, enforceable according to its terms.
- (C) Seller shall maintain the Property in its present condition (ordinary wear and tear excepted), except for the Demolition Work (as defined in **Section 12.16**) and Site Work (as defined in **Section 12.17**).
- (D) Seller has not received notice of any kind from any "Governmental Authority" alleging that Seller has failed to comply with any applicable law, ordinance, regulation, statute, rule or restriction pertaining to or affecting the Property. As used herein, the term "**Governmental Authority**" shall mean and include every department, agency, commission, board, bureau or instrumentality of the United States, the State of Ohio, the County of Portage, the County of Geauga, the Township of Bainbridge, or the City of Aurora having jurisdiction over the Property. Seller will promptly notify Buyer if Seller receives notice, between the date of this Agreement and the Closing Date, of any such noncompliance.
- (E) Seller has not received any notice of any condemnation proceeding or other proceedings in the nature of eminent domain in connection with the Property.

- (F) Seller is not a “nonresident alien,” “foreign corporation,” “foreign partnership,” “foreign trust” or “foreign estate” within the meaning of the Internal Revenue Code and Income Tax Regulations.
- (G) To Seller’s knowledge, there is no legal, administrative, arbitration or other proceeding, claim or action of any nature or investigation, including, but not limited to, condemnation, pending, involving, or threatened against the Property.
- (H) There are no outstanding accounts payable, mechanics’ liens, or rights to claim a mechanics’ lien in favor of any materialman, laborer, or any other person in connection with labor or materials furnished to or performed on any portion of the Property as the result of Seller’s actions, which will not have been fully paid for on or before the Closing Date or, to Seller’s knowledge, which might provide the basis for the filing of such liens against the Property or any portion thereof. Other than in connection with the Geauga Demolition Work, Seller has caused no work to be performed or in progress nor have materials been supplied to the Property or agreements entered into for work to be performed or materials to be supplied to the Property prior to the Effective Date, which will not have been fully paid for on or before the Closing Date or which might provide the basis for the filing of such liens against the Property or any portion thereof. Subsequent to the Effective Date, Seller shall be responsible for any and all claims for mechanics’ liens and accounts payable that have arisen or may subsequently arise due to agreements entered into by Seller for the completion of the Geauga Demolition Work (as defined in **Section 12.16(B)**), and Seller shall and does hereby agree to defend, indemnify and forever hold Buyer and Buyer’s designees, successors and assigns harmless from and against any and all such mechanics’ lien claims, accounts payable or other commitments relating to the Property.
- (I) Other than this Agreement, the REA, Portage Covenant, and the CJE, the Property is not subject to any commitment, obligation, or agreement, including, without limitation, any right of first refusal or offer or similar right to purchase or lease or option to purchase or lease granted to a third party, or any lease, license or other form of occupancy agreement or any agreement that will bind Buyer subsequent to Closing.
- (J) To Seller’s knowledge, no hazardous materials exist on, under or about the Property in violation of Environmental Laws (as defined herein) or have been transported to or from the Property or used, generated, manufactured, stored or disposed of on, under or about the Property in violation of Environmental Laws. To Seller’s knowledge, the Property is not in violation of Environmental Laws. To Seller’s knowledge, there is no past or present noncompliance with Environmental Laws in connection with the Property due to Seller’s ownership. To Seller’s knowledge, Seller has not received any written or oral notice or demand or other communication concerning any violation or potential violation of Environmental Laws with respect to the Property.

Section 8.2. Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller that, as of the date of this Agreement and as of the Closing Date:

- (A) Buyer is a municipal corporation validly existing and in good standing under the laws of the State of Ohio and has all requisite power and authority to purchase the Land and Lake and otherwise own the Property.
- (B) The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized, and this Agreement is a valid and binding obligation of Buyer, enforceable according to its terms.
- (C) Subsequent to the Effective Date, Buyer shall be responsible for any and all claims for mechanics' liens and accounts payable that have arisen or may subsequently arise due to agreements entered into for the completion of the Portage Demolition Work (as defined in **Section 12.16(A)**) and the Site Work.

Section 8.3. "As-Is" Condition. Buyer acknowledges and agrees that, except as otherwise expressly stated in this Agreement, (a) Seller has not made any warranty, guaranty or representation relating to the Property, (b) Buyer is relying solely on its own investigation of the Property and not on any information provided or to be provided by Seller, and (c) Buyer agrees to accept the Property and acknowledges that the sale thereof as provided for in this Agreement is made by Seller on an "As-Is, Where-Is and with all faults" basis. The term "**Environmental Laws**" shall mean all present and future federal, state and local laws, regulations, policies and ordinances and principles of common law relating to the protection of the environment, public health or public safety, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, (42 U.S.C. § 9601, et seq., as amended), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq., as amended), the Clean Water Act (33 U.S.C. § 7401, et seq. as amended), the Safe Drinking Water Act (42 U.S.C. § 300f, et seq., as amended) the Toxic Substances Control Act (15 U.S.C. § 2601, et seq. as amended), any state and local counterparts of such statutes or regulations and any state voluntary cleanup programs, each as amended from time-to-time.

ARTICLE 9 RESERVED

ARTICLE 10 CLOSING AND PRORATION

Section 10.1. Closing. As used in this Agreement, the "**Closing Date**" shall be on a date mutually-agreed to by Seller and Buyer on or before seven business days after the Effective Date, or such other date as is mutually agreed upon by the parties. The closing ("**Closing**") of this Agreement shall take place at the offices of Title Company as an escrow closing upon Title Company's receipt from both parties of authorization to close the transaction.

Section 10.2. Proration Date. As used in this Agreement, the "**Proration Date**" shall be 12:01 a.m. on the Closing Date.

Section 10.3. Closing Deliveries. All matters to be performed under this Agreement shall be performed concurrently on the Closing Date and shall consist of the following transactions, all of which shall be deemed as having taken place simultaneously and none of which shall be deemed to occur until all have been completed:

- (A) Seller will at Closing deliver or effect the following:
 - (i) Delivery to Buyer of Deeds to the Land and the Lake; and
 - (ii) Delivery of such other and further documents and/or deliveries as may reasonably be required by Buyer and Title Company to enable Seller to perform its obligations hereunder, which documentation may include a certificate dated as of the Closing Date containing verification of the condition precedent set forth in Section 10.4(a) (i.e. bring down certificate).
- (B) Buyer will at Closing deliver or effect the following:
 - (i) Delivery to Seller of the funds required to close under the terms of this Agreement; and
 - (ii) Delivery of such other and further documents and/or deliveries as may reasonably be requested by Seller or Title Company to enable Buyer to perform its obligations under this Agreement.
- (C) At the Closing, real estate taxes and assessments will be prorated as of the Proration Date, using the most recently available tax duplicate, which proration shall be final. All real estate tax prorations shall be based on the real estate taxes and assessments levied by each taxing body. If the proration at Closing is based on tax assessments and bills covering a tax parcel that is larger than but includes the Property, then the portion of such tax bills pertaining to the Property shall be determined by allocation on a per-acre basis, with appropriate allocation of taxes attributable to improvements on the assessed parcel based upon the location of same on the parcel (so the Buyer pays no taxes attributable to improvements that are not located on the Property). Seller shall be responsible for the cost and expense of water and sewer, municipal garbage, rubbish removal and other utilities serving the Property through and including the date immediately preceding the Closing Date and shall retain in escrow such adequate security for same as determined by the Title Company. Buyer shall be responsible for the cost and expense of water and sewer, municipal garbage, rubbish removal and other utilities serving the Property for the period commencing on the Closing Date.

Section 10.4. Conditions Precedent to Obligations of Buyer. Anything herein contained to the contrary notwithstanding, Buyer's obligations under this Agreement are subject to and conditioned upon the following: (a) all representations and warranties of Seller shall be true and correct in all material respects on the Closing Date; (b) the Title Company shall be in a position to

issue the title policy in the condition reasonably acceptable to Buyer on the Closing Date; (c) Seller shall have incorporated all reasonable requests from Buyer with regard to any and all actions taken by Seller to comply with the terms of the CJE, including, but not limited to, consideration of the Buyer's reasonable comments to any amendments to any declaration of covenants, agreements, and restrictions on the Property as well as Buyer's comments to any locations for public access on the Property; (d) Buyer shall be satisfied in Buyer's sole discretion with the encumbrances remaining on the Property, including, but not limited to, the REA, as amended, the CJE, as amended, the Portage Covenant, the Aurora Easement, the Access Easement, and any operating, reciprocal easement, or restrictive covenant agreement(s); (e) Buyer's governing authorities have approved the acquisition of the Property; and (f) the simultaneous closing of the transactions contemplated by that certain Agreement of Sale and Transfer between Seller and Buyer for approximately 7.1234 acres of land of even date herewith (the "**Related PSA**"). If any of the conditions of this Section 10.4 are not fulfilled, in whole or in part on or before the Closing Date (or such earlier date as expressly set forth herein), Buyer, at its sole option, shall have the right, exercisable by notice to Seller: (i) to waive such condition and proceed to close this transaction or (ii) to terminate this Agreement by providing written notice to Seller on or before the Closing Date, in which event the Escrow Funds and all other funds and documents deposited by Buyer in escrow shall be immediately returned to Buyer and this Agreement shall have no further force or effect and thereupon the parties shall be released from any further obligation to the other under this Agreement, except for any obligation that expressly survives the termination of this Agreement.

Section 10.5. Condition Precedent to Obligations of Seller. Anything herein contained to the contrary notwithstanding, Seller's obligations under this Agreement are subject to and conditioned upon the simultaneous closing of the transactions contemplated by the Related PSA. If the condition set forth in this Section 10.5 is not fulfilled on or before the Closing Date, Seller, at its sole option, shall have the right, exercisable by notice to Buyer: (i) to waive such condition and proceed to close this transaction or (ii) to terminate this Agreement by providing written notice to Buyer on or before the Closing Date, in which event the Escrow Funds and all other funds and documents deposited by Buyer in escrow shall be immediately returned to Buyer and this Agreement shall have no further force or effect and thereupon the parties shall be released from any further obligation to the other under this Agreement, except for any obligation that expressly survives the termination of this Agreement.

ARTICLE 11 CONDEMNATION AND DAMAGE BY CASUALTY

Section 11.1. Condemnation. If all of the Property is or is proposed to be taken or condemned by any public authority between the Effective Date and the Closing Date, Seller shall give Buyer written notice thereof, and this Agreement shall terminate and be null and void and thereafter neither party shall have any liability or obligation to the other except that the Escrow Funds shall be refunded or returned to Buyer. Should less than all of the Property be or is proposed to be taken or condemned by any public authority between the date of execution of this Agreement and the Closing Date, Seller shall give Buyer written notice thereof, and Buyer shall have the option:

- (A) To terminate this Agreement by written notice to Seller within fifteen (15) days after Buyer's receipt of Seller's notice, in which event this Agreement shall become null and void and thereafter neither party shall have any liability or obligation to the other except that the Escrow Funds shall be refunded or returned to Buyer; or
- (B) To take title to the remaining portion of the Property without abatement of Purchase Price, in which event the proceeds of any condemnation award collected by Seller prior to the Closing Date will be paid or credited to Buyer at Closing, and Seller shall assign to Buyer all of Seller's right, title and interest in and to such award resulting from such taking or condemnation.

In the event that Buyer fails to provide Seller with its termination notice within the 15-day period set forth in subpart 11.1(A) above, then Buyer shall be deemed to have elected to take title to the Property pursuant to 11.1(B) above.

Section 11.2. Casualty. If the Property suffers damage as a result of any casualty prior to the Closing Date in excess of Two Hundred Fifty Thousand Dollars (\$250,000) then Seller shall give Buyer written notice thereof, and Buyer may elect, by written notice delivered to Seller within fifteen (15) days after Buyer's receipt of Seller's notice:

- (A) To terminate this Agreement by written notice to Seller, in which event this Agreement shall become null and void and thereafter neither party shall have any liability or obligation to the other except that the Escrow Funds shall be refunded or returned to Buyer; or
- (B) To take title to the remaining portion of the Property without abatement of Purchase Price, in which event the Buyer shall receive all insurance proceeds resulting from such casualty and Seller shall pay to Buyer the amount of any deductible.

In the event that Buyer fails to provide Seller with its termination notice within the 15-day period set forth this **Section 11.2**, then Buyer shall be deemed to have elected to take title to the Property pursuant to 11.2(B) above.

All risks of loss are borne by Seller prior to Closing.

ARTICLE 12 MISCELLANEOUS

Section 12.1. Notices. All notices required or permitted hereunder shall be in writing and deemed given if sent by: (i) certified or registered mail, return receipt requested; (ii) by a nationally recognized overnight courier service (provided that a receipt is given); or (iii) by email, and confirmed by delivering a copy of email notice by another permitted means, provided that such notice shall be deemed effective upon transmittal (not upon dispatch or receipt of a copy). All notices required or permitted hereunder shall be addressed as follows:

To Seller: ICP Geauga Lake LLC
6110 Parkland Boulevard
Mayfield Heights, Ohio 44124
Attention: Christopher S. Semarjian
Email: csemarjian@icpllc.com

With copy to: Walter | Haverfield LLP
6110 Parkland Boulevard, Suite 100
Mayfield Heights, Ohio 44124
Attention: Edward A. Hurtuk, Esq.
Email: ehurtuk@walterhav.com

To Buyer: City of Aurora
130 South Chillicothe Road
Aurora, Ohio 44202
Attn: Dean DePiero
Email: depierod@auroraoh.com

With copy to: McDonald Hopkins LLC
600 Superior Ave. East, Suite 2100
Cleveland, OH 44114
Attention: David Gunning
Telephone: (216) 430-2026
Email: dgunning@mcdonaldhopkins.com

Section 12.2. Entire Agreement. This Agreement, including the attached Exhibits, shall constitute the entire agreement between the parties with respect to the subject matter of this Agreement and shall supersede all previous negotiations, commitments, writings or agreements of sale.

Section 12.3. Amendment. This Agreement may not be amended, changed or modified in any manner except by an instrument in writing signed by each of the parties hereto or their duly appointed officers or representatives. The failure of any party to enforce at any time any of the provisions of this Agreement shall in no way be a waiver of such provision or in any way affect the validity of this Agreement or any part of this Agreement or the right of any party thereafter to enforce each and any such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other breach of this Agreement.

Section 12.4. Headings. The captions appearing in this Agreement are inserted only as a matter of convenience and as a reference and in no way define, limit or describe the scope or intent of this Agreement or any of the provisions hereof.

Section 12.5. Brokers. Each party represents and warrants to the other party that neither party, nor anyone acting on the behalf of either party, has incurred any liability to any broker or finder in connection with the transaction contemplated by this Agreement. The representations

and warranties set forth in this Section 12.5 shall survive Closing and/or termination of this Agreement for any reason.

Section 12.6. Computation of Time Period. Wherever this Agreement requires that something be done within a specified period of days, the period shall (a) not include the day from which the period commences, (b) include the day upon which the period expires, (c) expire at 5:00 p.m. local time on the day upon which the period expires and (d) unless otherwise specified in this Agreement shall be construed to mean calendar days, provided, that if the final day of the period falls on a Saturday or Sunday or legal holiday (limited to the day set aside by statute for observing New Year's Day, Martin Luther King Jr.'s Birthday, Presidents' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day), it shall be extended to first business day thereafter.

Section 12.7. Counterparts. This Agreement may be executed in multiple counterparts, in original or by fax or email and, when taken together, shall be considered an original.

Section 12.8. Binding. This Agreement shall be binding upon the parties, and their respective successors and permitted assigns. Seller agrees that Buyer may assign this Agreement and its rights under this Agreement, in whole or in part, to a newly formed entity controlled by Buyer (provided, however, that Buyer shall not be released from liability as a result of such assignment) and Seller will simultaneously with the payment in full of the consideration, sell, convey, assign or transfer the Property, as provided in this Agreement, to such nominee, assignee or designee. Buyer agrees that Seller may assign this Agreement and its rights under this Agreement, in whole or in part, to a newly formed entity controlled by Seller (provided, however, that Seller shall not be released from liability as a result of such assignment) and Buyer shall thereafter perform as provided in this Agreement, with such Seller nominee, assignee or designee.

Section 12.9. Exchange of Property. Buyer agrees, if requested by Seller, to cooperate with Seller to permit Seller to consummate an exchange of property pursuant to IRC Section 1031, including but not limited to the execution of those documents necessary to effectuate such exchange. Buyer shall not be responsible for any tax or economic consequences associated with any IRC Section 1031 exchange by Seller hereunder. Further, Seller agrees to pay all costs relative to the preparation of documents and expenses related to the closing of said exchange.

Section 12.10. Severability. If any term or provision of this Agreement or the application thereof to any person, property or circumstance shall to any extent be invalid or unenforceable the remainder of this Agreement, or the application of such term or provision to persons, properties and circumstances other than those as to which it is invalid or enforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 12.11. Governing Law. This Agreement shall be construed in accordance with the internal laws of the State in which the Property is located, without regard to its conflict of law principles.

Section 12.12. Failure to Comply. In the event of a material breach or default by Seller of this Agreement, Buyer shall be entitled, as its sole remedies, to the return of the Escrow Funds or the right to seek specific performance against Seller. In the event of a material breach or default by Buyer of this Agreement, Seller shall be entitled to the Escrow Funds as liquidated damages, which liquidated damages shall be Seller's sole and exclusive remedy.

Section 12.13. Exclusivity. During the period this Agreement is in effect, Seller shall not directly or indirectly offer to sell, solicit offers, negotiate or accept any other offers for the sale of the Property.

Section 12.14. Lot Split. Seller and Buyer acknowledge and agree that the Land and the Lake are not comprised of separate tax parcels in each of Geauga County and Portage County as of the Effective Date. Prior to the Closing Date, Seller shall, at its sole cost and expense, obtain a lot split and/or consolidation, as the case may be, that will result in there being four (4) separate tax parcels as follows: (i) the portion of the Land in Geauga County, (ii) the portion of the Lake in Geauga County, (iii) the portion of the Land in Portage County, and (iv) the portion of the Lake in Portage County (the "**Lot Split**"). If Seller is unable to obtain the Lot Split on or before the Closing Date, then Seller shall have the right, in Seller's sole discretion, to extend the Closing Date for a period of up to ninety (90) days (the "**Lot Split Extension Period**") in order to continue pursuit of the Lot Split. If Seller exercises the Lot Split Extension Period and is unable to obtain the Lot Split on or before the expiration of the Lot Split Extension Period, then each of Seller and Buyer shall have the right, at any time prior to the final approval of the Lot Split, to terminate this Agreement, in which event the Escrow Funds shall be returned to Buyer and neither Buyer nor Seller shall have any further rights, duties or obligations under this Agreement except for the rights, duties and obligations that expressly survive the expiration or termination of this Agreement. In no event shall failure to obtain the Lot Split be deemed a default by Seller under this Agreement or give rise to any remedy in favor of Buyer outside of those rights set forth in this Section 12.14. In connection with pursuit of the Lot Split, Buyer agrees that if any governmental authority requires the implementation of an access easement granting the Lake access rights to a public right-of-way as a precondition to approval of the Lot Split, then Seller and Buyer shall mutually agree upon a form of access easement and/or declaration granting the parcel containing the Lake such access rights as are required by the governmental authority over the portion of the Land in Geauga County in a location approved by Buyer in order to obtain approval of the Lot Split.

Section 12.15. Use of Property. Buyer intends to initially develop and use the Property as a public park and agrees to do so for a minimum of fifteen (15) years following the Closing, and will install amenities for active recreational use as well as structures, facilities, and appurtenances thereto. Buyer may also lease and/or license areas of the Property for use as restaurants, bars and other food and beverage providers and providers of beach and swim related amenities (collectively, the "**Permitted Use**"). The provisions of this Section 12.15 shall survive Closing.

Section 12.16. Demolition Work. The parties agree to perform, or cause the performance of, certain specific demolition work on the Property in both Geauga County and Portage County (collectively, the "**Demolition Work**"). The scope of the Demolition Work is set forth on Exhibit E attached hereto and made a part hereof. The Demolition Work will be subject to the following:

- (A) Buyer and Seller acknowledge and agree that Buyer, at its sole cost and expense, will be responsible for all Demolition Work that will be performed on the Property in Portage County (the "**Portage Demolition Work**"), and Seller will have no liability, financial or otherwise, for the Portage Demolition Work, except for such work performed prior to Closing by Seller, which shall be at Seller's cost.
- (B) Seller shall pay the costs of the Demolition Work that will be performed on the Property in Geauga County (the "**Gauga Demolition Work**"). Seller will directly contract for the Geauga Demolition Work and pay all contractors accordingly. Notwithstanding anything in this Agreement to the contrary, if the cost of the Geauga Demolition Work increases as the result of change orders required by Buyer, then Buyer will be obligated to pay all of such increased costs.
- (C) The provisions of this **Section 12.16** shall survive Closing.
- (D) Buyer shall decide and direct the scope of the demolition plan for the Portage Demolition Work.

Section 12.17. Site Work. Buyer expects the public park project to be phased. Buyer will use best efforts to begin site work within twelve (12) months following the completion of the Demolition Work. Buyer will use best efforts to complete the first phase of the public park project within twenty-four (24) months following completion of the Demolition Work. The provisions of this Section 12.17 shall survive Closing.

[Signatures are on the following page.]

2023-104

The parties have executed this Agreement as of the day and in the year above written.

Seller:

ICP GEAUGA LAKE LLC,
an Ohio limited liability company

By: _____

Name: Christopher S. Semarjian

Title: Manager

Buyer:

CITY OF AURORA,
an Ohio municipal corporation

By: _____

Name: Ann Womer Benjamin

Title: Mayor

2023-104

EXHIBIT A

Legal Description of Property

Legal Description of the Land:
(Portage County Acreage)

PARCEL 1 (03-008-00-00-005-000)

That portion of Lot 8 in Aurora Township, Portage County, State of Ohio, and described as follows:

Beginning at the intersection of the Northern boundary of said Aurora Township with the Western line of Squires Road, 50 feet wide; thence along said Western boundary South 12 deg. 01' 30" West, 558.79 feet; thence South 9 deg. 48' 30" West, 426.13 feet; thence South 18 deg. 47' 30" West, 5.83 feet more or less to the most Easterly point of Maple Grove Allotment; thence North 75 deg. 11' 48" West, along the Northern line of said Maple Grove Allotment 1164.43 feet more or less to the Northwest corner of Lot 4 in said allotment; thence North 75 deg. 45' 20" West, 578.72 feet; thence North 11 deg. 42' 20" East, 77.06 feet; thence North 63 deg. 24' East, 245 feet; thence North 28 deg. 39' East, 440 feet more or less to a point on said Northern boundary of Aurora Township; thence along said boundary South 88 deg. 25' 48" East, 1432.47 feet to the point of beginning, as determined by Daniel E. Hartung Sr., R.S. #4453. The above description embraces 28.778 acres more or less.

2023-104

Legal Description of the Land (continued):
(Geauga County Acreage)

LEGAL DESCRIPTION FOR:

LOT 2

Bainbridge, Ohio

Lands shown are known as being part of Original Bainbridge Township Lot Number 28, in Tract Number 3, situated now in the Township of Bainbridge, County of Geauga in the State of Ohio, further bounded and described as follows:

Beginning at the intersection of the southwesterly line of PPN: 02-900039, land conveyed to The Cleveland-Cuyahoga Railway Co., as recorded in Volume 1256, Page 1015 of Geauga County Records, and the centerline line of Brewster Road (60 feet wide); THENCE, South 57°45'44" West, along the centerline of said Brewster Road, passing a 5/8" iron pin monument at 64.34 feet, a total distance of 702.03 feet to the corporation line between Bainbridge Township and the City of Aurora, and a Magnail set; THENCE, along the said County Line, North 89°56'18" West, a distance of 39.94 feet to a MagNail set at the principal place of beginning of the parcel herein described;

THENCE, North 89°56'18" West, along the northerly line of Portage County, a distance of 1224.62 feet to a 5/8" capped iron pin set, passing through a 5/8" iron pin found at 25.33 feet;

THENCE, North 59°30'26" East, a distance of 193.66 feet to a 5/8" capped iron pin set;

THENCE, North 88°00'44" East, a distance of 181.38 feet to a 5/8" capped iron pin set;

THENCE, North 01°43'19" East, a distance of 192.90 feet to a 5/8" capped iron pin set;

THENCE, North 29°56'59" East, a distance of 203.27 feet to a 5/8" capped iron pin set;

THENCE, South 87°41'51" East, a distance of 708.67 feet to a MagNail set on the centerline of vacated Depot Road Volume 20, Page 85 of Geauga County Records;

THENCE, along said vacated Depot Road, South 08°25'53" East, a distance of 435.10 feet to a MagNail set;

THENCE, South 09°36'23" West, a distance of 16.18 feet to the place of beginning and containing 9.3554 acres of land, of which 0.0109 acres are within the public right-of-way and all of which is part of PPN: 02-324300, based on a survey conducted in May of 2023, by John R. Alban, Ohio Professional Surveyor 7651.

Subject to pipeline easement recorded in volume 196, page 452 of Geauga County Records.

Bearings are based on Ohio State Plane, North Zone, NAD83 (2011), GRS 80 by GPS observations in March of 2023.

2023-104

All pins set are 5/8" x 30" rebar with yellow cap marked "J. Alban 7651".

Prior Instruments of Record:

-ICP Geauga Lake, LLC, as recorded in Volume 2109, Page 316 of G.C.R.



24-066



6-13-24

Legal Description of the Lake:
(Portage County Acreage)

The acreage described below shall include all riparian and littoral rights of every kind associated with the body of water described therein.

LEGAL DESCRIPTION FOR:

LOT 3

Aurora, Ohio

Lands shown are known as being part of Original Aurora Township Lot Number 1 and 8, now in the City of Aurora, County of Portage in the State of Ohio, further bounded and described as follows:

Beginning at the intersection of the centerline of North Aurora Road (S.R.43) (Width Varies) with the centerline of Lake Avenue (60 feet wide), said point being on the county line between Geauga County and Portage County, the same being the corporation line between the Township of Bainbridge and the City of Aurora; THENCE, South 89°56'18" East, along the southerly line of Bainbridge Township, a distance of 48.87 feet to the northeasterly line of North Aurora Road (S.R.43), and a 5/8" iron pin found; THENCE, South 89°56'18" East, continuing along the southerly line of Bainbridge Township, a distance of 556.47 feet a point and a 5/8" capped iron pin set and the principal place of beginning of the parcel herein described;

THENCE, South 89°56'18" East, along the southerly line of Bainbridge Township, a distance of 876.51 feet to the northwesterly corner of PPN: 03-008-00-00-005-000, land conveyed to ICP Geauga Lake, LLC., as recorded in Inst.# 2020-20573 of Portage County Records to a point;

THENCE, leaving said Bainbridge Township line along a westerly line of said ICP Geauga Lake, LLC., South 29°01'58" West, a distance of 440.00 feet to an angle point;

THENCE, South 52°48'53" West, continuing along a westerly line of said ICP Geauga Lake, LLC., a distance of 245.00 feet to the northeasterly corner of the right-of way limits of a Public Drive (28 feet wide and varies) and a 1" iron pipe found;

THENCE, North 78°40'40" West, along the northerly line of said Public Drive, a distance of 52.00 feet to a 5/8" capped iron pin set at the northwesterly corner of said Public Drive right-of-way;

THENCE, South 01°18'47" West, along the westerly line of said Public Drive, a distance of 12.04 feet to a point therein and a 5/8" capped iron pin set;

THENCE, South 87°16'53" West, leaving the westerly line of Public Drive along a new line, a distance of 329.81 feet to the northeasterly corner of PPN: 03-001-00-00-UNK-000, land conveyed to The Western Reserve Land Co., as recorded in Volume 236, Page 19 of P.C.R., and a 5/8" iron pin found(0.82' SE.);

THENCE, North 62°23'03" West, along the northeasterly line of The Western Reserve Land Co., a distance of 30.00 feet to the northwesterly corner of said Western Reserve Land Co., and a 5/8" capped iron pin set;

2023-104

THENCE, South $27^{\circ}34'25''$ West, along the westerly line of The Western Reserve Land Co., a distance of 58.98 feet to the northeasterly corner of PPN: 03-001-10-00-002-000, land conveyed to Geauga Lake Improvement Assoc., and a $5/8''$ iron pin found ($0.77'SE./0.22'NE.$);

THENCE, North $23^{\circ}53'41''$ West, along the northeasterly line of Western Reserve Land Co., a distance of 300.42 feet to the northerly corner of said Western Reserve Land Co., and a $5/8''$ iron pin found;

THENCE, North $54^{\circ}11'49''$ East, a distance of 31.46 feet to a $5/8''$ capped iron pin set;

THENCE, North $08^{\circ}36'50''$ West, a distance of 77.38 feet to a $5/8''$ capped iron pin set;

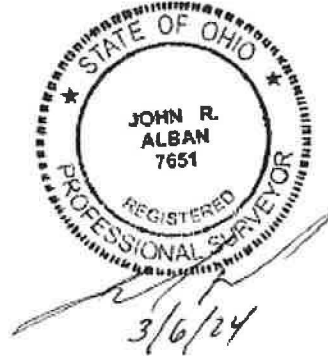
THENCE, North $04^{\circ}32'02''$ East, a distance of 92.17 feet to a $5/8''$ capped iron pin set;

THENCE, North $19^{\circ}24'13''$ East, a distance of 108.74 feet to a $5/8''$ capped iron pin set;

THENCE, North $50^{\circ}38'34''$ East, a distance of 40.28 feet to the principal place of beginning and containing 9.4657 Acres of land, based on a survey conducted in June of 2023, by John R. Alban, Ohio Professional Surveyor 7651.

Bearings are based upon an assumed meridian and are to be used for reference only.

All pins set are $5/8'' \times 30''$ rebar with yellow cap marked "J. Alban 7651".



Legal Description of the Lake:
(Geauga County Acreage)

The acreage described below shall include all riparian and littoral rights of every kind associated with the body of water described therein.

LEGAL DESCRIPTION FOR:

LOT 3

Bainbridge, Ohio

Lands shown are known as being part of Original Bainbridge Township Lot Number 28, in Tract Number 3, in the Township of Bainbridge, County of Geauga, and being part of Original Aurora Township Lot Number 1 and 8, in the City of Aurora, County of Portage, in the State of Ohio, further bounded and described as follows:

Beginning at a Magnail set at intersection of the corporation line between Bainbridge Township and The City of Aurora, the same being the line between Geauga County and Portage County, with the centerline of Brewster Road (60 feet wide); THENCE, North 89°56'18" West, along the corporation line between Bainbridge Township and The City of Aurora, the same being the northerly line of PPN: 03-008-00-00-005-000, land conveyed to ICP Geauga Lake, LLC, as recorded in Inst.# 2020-20573 of Portage County Records, a distance of 1264.56 feet to a 5/8" capped iron pin set and the principal place of beginning of the parcel herein described;

THENCE, continuing along the corporation line between Bainbridge Township and The City of Aurora, North 89°56'18" West, a distance of 232.69 feet to the northwesterly corner of said PPN: 03-008-00-00-005-000;

THENCE, leaving said corporation line along the westerly line of said PPN: 03-008-00-00-005-000, South 29°01'58" West, a distance of 439.95 feet to a point;

THENCE, South 52°48'53" West, continuing along a westerly line of said PPN: 03-008-00-00-005-000, a distance of 245.00 feet to the northeasterly corner of the right-of-way limits of a Pubic Drive (28 feet wide and varies), as shown on the Plat of Lakeview Allotment, as recorded in Volume 4, Page 31 of Portage County Records, and a 1" iron pipe found;

THENCE, North 78°40'40" West, along the northerly line of said Public Drive, a distance of 52.00 feet to a 5/8" capped iron pin set at the northwesterly corner of said Public Drive right-of-way;

THENCE, South 01°18'47" West, along the westerly line of said Public Drive, a distance of 12.04 feet to a point therein and a 5/8" capped iron pin set;

THENCE, South 87°16'53" West, leaving the westerly line of Public Drive along a new line, a distance of 329.81 feet to the northeasterly corner of PPN: 03-001-00-00-UNK-000, land conveyed to The Western Reserve Land Co., as recorded in Volume 236, Page 19 of P.C.R., and a 5/8" iron pin found(0.82'SE.);

THENCE, North 62°23'03" West, along the northeasterly line of The Western Reserve Land Co., a distance of 30.00 feet to the northwesterly corner of said Western Reserve Land Co., and a 5/8" capped iron pin set;

THENCE, South 27°34'25" West, along the westerly line of The Western Reserve Land Co., a distance of 58.98 feet to the northeasterly corner of PPN: 03-001-10-00-002-000, land conveyed to Geauga Lake Improvement Assoc., and a 5/8" iron pin found (0.77°SE./0.22°NE.);

THENCE, North 23°53'41" West, along the northeasterly line of Western Reserve Land Co., a distance of 300.42 feet to the northerly corner of Geauga Lake Improvement Assoc., and a 5/8" iron pin found;

THENCE, along a new line, the following 5 courses:

THENCE, North 54°11'49" East, a distance of 31.46 feet to a 5/8" capped iron pin set;

THENCE, North 08°36'50" West, a distance of 77.38 feet to a 5/8" capped iron pin set;

THENCE, North 04°32'02" East, a distance of 92.17 feet to a 5/8" capped iron pin set;

THENCE, North 19°24'13" East, a distance of 108.74 feet to a 5/8" capped iron pin set;

THENCE, North 50°38'34" East, a distance of 40.22 feet to the corporation line between the Township of Bainbridge and the City of Aurora;

THENCE, North 89°56'18" West, along said corporation line, a distance of 30.54 feet to the southeasterly corner of PPN: 02-126100, land conveyed to Vision Acquisition LLC., as recorded in Volume 2141, Page 1350 of Geauga County Records;

THENCE, northerly along the easterly line of Vision Acquisition, the following 16 courses:

Thence, North 09°17'38" East, a distance of 126.91 feet to a 5/8" iron pin set;

Thence, North 88°14'59" East, a distance of 27.79 feet to a 5/8" iron pin set;

Thence, North 20°03'40" East, a distance of 32.21 feet to a 5/8" iron pin set;

Thence, North 01°19'58" West, a distance of 76.21 feet to a 5/8" iron pin set;

Thence, North 05°46'08" East, a distance of 55.89 feet to a 5/8" iron pin set;

Thence, North 09°55'30" East, a distance of 103.64 feet to a 5/8" iron pin set;

Thence, North 04°04'15" East, a distance of 126.17 feet to a MagNail set;

Thence, North 23°54'21" West, a distance of 64.38 feet to 5/8" iron pin set;

Thence, North 29°29'45" West, a distance of 158.64 feet to 5/8" iron pin set;

Thence, North 00°56'50" East, a distance of 62.18 feet to a 5/8" iron pin set;

Thence, North 10°58'57" East, a distance of 52.28 feet to a point which falls in the water;

Thence, North 01°18'28" East, a distance of 47.24 feet to a 5/8" iron pin set;

Thence, North 09°15'34" West, a distance of 52.18 feet to a 5/8" iron pin set;

Thence, North 26°54'18" West, a distance of 79.05 feet to a point which falls in the water;

Thence, North 18°21'33" West, a distance of 119.49 feet to a point which falls in the water;

Thence, North 31°15'02" East, a distance of 85.68 feet to the northeasterly corner of aforementioned Vision Acquisition LLC., and a 5/8" capped iron pin set;

THENCE, northeasterly along a new line, the following 27 courses:

Thence, North 30°51'25" East, a distance of 153.66 feet to a 5/8" capped iron pin set;

Thence, South 51°37'00" East, a distance of 14.11 feet to a 5/8" capped iron pin set;

Thence, North 35°34'39" East, a distance of 159.67 feet to a 5/8" capped iron pin set;

Thence, North 85°38'34" East, a distance of 81.53 feet to a point which falls in the water (passing through a 5/8" iron pin set at 56.53 feet);

Thence, South 82°13'49" East, a distance of 64.82 feet to a 5/8" capped iron pin set;

Thence, North 73°08'58" East, a distance of 65.35 feet to a 5/8" capped iron pin set;

Thence, North 01°30'01" West, a distance of 100.02 feet to a 5/8" capped iron pin set;

Thence, North 36°55'26" East, a distance of 74.31 feet to a 5/8" capped iron pin set;

Thence, North 64°53'29" East, a distance of 78.49 feet to a MagNail set;

Thence, North 79°00'27" East, a distance of 145.38 feet to a 5/8" capped iron pin set;

Thence, South 55°58'11" East, a distance of 75.34 feet to a 5/8" capped iron pin set;

Thence, South 43°05'37" East, a distance of 32.67 feet to a 5/8" capped iron pin set;

Thence, North 61°23'20" East, a distance of 177.66 feet to a 5/8" capped iron pin set;

Thence, South 02°47'09" East, a distance of 189.43 feet to a point which falls in the water (passing through a 5/8" iron pin set at 89.43 feet);

Thence, South 65°37'31" East, a distance of 149.76 feet to a 5/8" capped iron pin set;

Thence, South 48°47'35" East, a distance of 109.24 feet to a 5/8" capped iron pin set;

Thence, South 36°20'00" East, a distance of 87.24 feet to a point which falls in the water (witnessed by a 5/8" iron pins set at 77.24 feet);

Thence, South 60°45'17" East, a distance of 145.88 feet to a point which falls in the water;

Thence, South 89°02'45" East, a distance of 203.38 feet to a 5/8" capped iron pin set witnessed by a 5/8" iron pin set at 110.00 feet);

Thence, South 51°50'21" East, a distance of 177.06 feet to a 5/8" capped iron pin set;

Thence, South 08°39'17" East, a distance of 236.80 feet to a 5/8" capped iron pin set;

Thence, South 05°22'42" East, a distance of 244.07 feet to a point which falls in the water;

Thence, continuing along said new line, South 05°57'19" West, a distance of 73.03 feet to a 5/8" capped iron pin set;

THENCE, South 29°56'59" West, a distance of 309.37 feet to a 5/8" capped iron pin set;

THENCE, South 01°43'19" West, a distance of 192.90 feet to a 5/8" capped iron pin set;

THENCE, South 88°00'44" West, a distance of 181.38 feet to a 5/8" capped iron pin set;

THENCE, South 59°30'26" West, a distance of 193.66 feet to the place of beginning and containing 60.3054 acres of land comprised of, 44.0016 acres from PPN: 02125700, 1.5388 acres from PPN: 02-125400, 0.5094 acres from PPN: 02-026000, 0.8217 acres from PPN: 02-125300, 0.1454 acres from PPN: 02-125600, 2.5478 acres from PPN: 02-126200, 0.0446 acres from PPN: 02-324000, and 1.2304 acres from PPN: 02-324300, all located in Geauga County, and 9.4657 acres from Portage County based on a survey conducted in May of 2024, by John R. Alban, Ohio Professional Surveyor 7651.

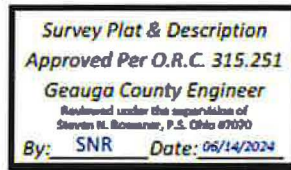
Bearings are based on Ohio State Plane, North Zone, NAD83 (2011), GRS 80 by GPS observations in March of 2023.

All pins set are 5/8" x 30" rebar with yellow cap marked "J. Alban 7651".

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Prior Instruments of Record:

-ICP Geauga Lake, LLC, as recorded in Volume 2109, Page 316 of G.C.R.



24-066



0-13-24

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EXHIBIT B

Depiction of the Land



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EXHIBIT C

Depiction of the Lake Loop

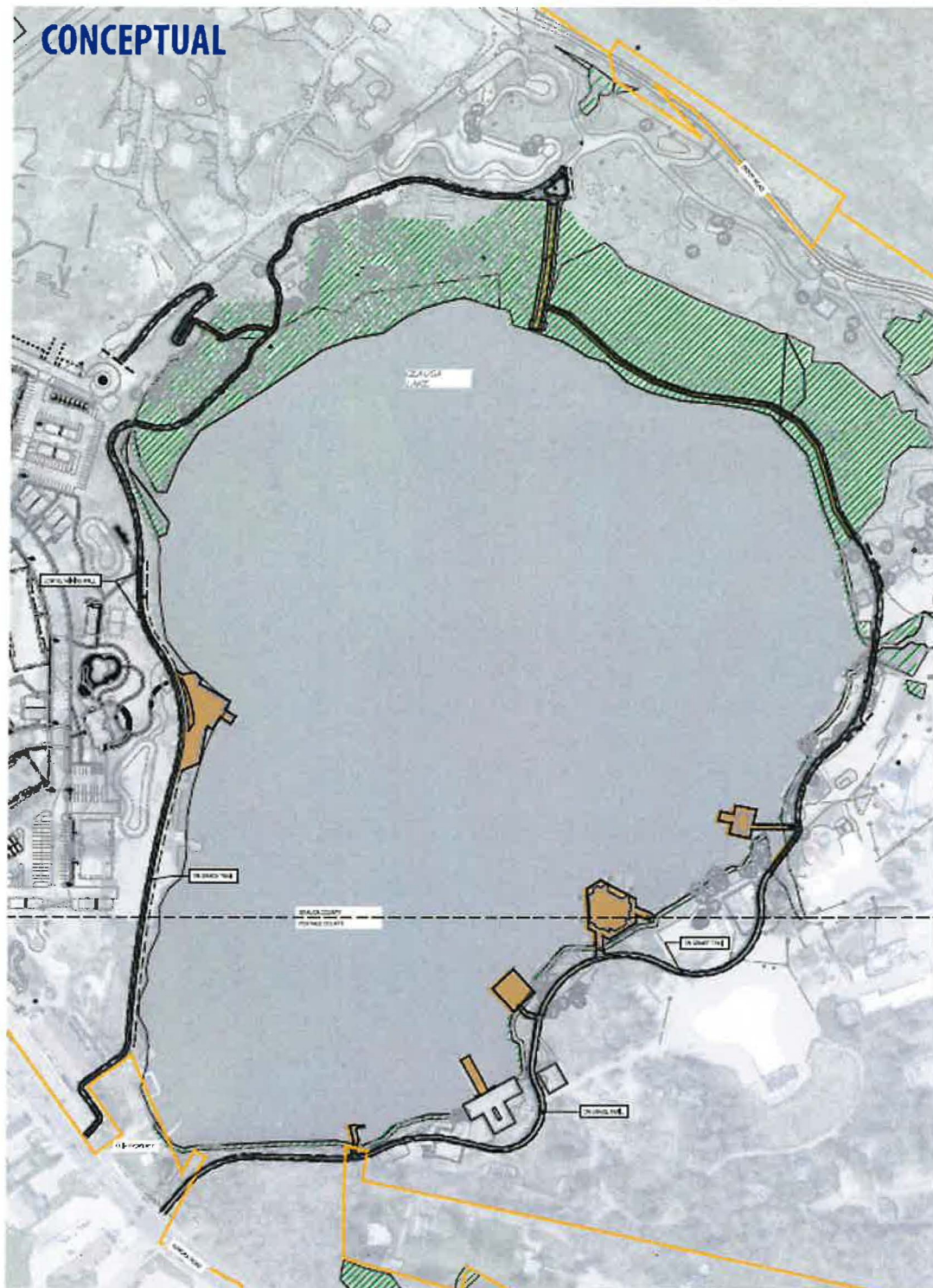


Exhibit C

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EXHIBIT D

Form of Deed

**LIMITED WARRANTY DEED
(Pursuant to Ohio Revised Code Section 5302.07 and 5302.08)**

KNOW ALL MEN BY THESE PRESENTS, that **ICP GEAUGA LAKE LLC**, an Ohio limited liability company (the “Grantor”), for valuable consideration paid, grants with limited warranty covenants, to the **CITY OF AURORA**, an Ohio municipal corporation and body politic (the “Grantee”), whose tax-mailing address is 130 South Chillicothe Road, Aurora, Ohio 44202, the following real property (“Property”):

The legal description of the Property is attached hereto as Exhibit A and incorporated herein by reference along with and including all riparian and littoral rights associated with the Lake and an easement around the Lake for the proper control of, access to, and maintenance of the Lake by the Grantee.

Also known as:

Permanent Parcel No(s):

Prior Instrument References:

The Property is subject, however, to all applicable zoning ordinances, legal highways, taxes and assessments, if any, not yet due and payable, items that would be shown by a true and accurate survey of the Property, and all applicable restrictions, conditions, limitations, leases, rights of way, reservations and easements of record. For the avoidance of doubt, this instrument shall not transfer to Grantee, those obligations expressly reserved to Grantor in that certain Consent Judgment Entry dated October 21, 2021 associated with Case No. 21M000337 in the Geauga County Court of Common Pleas, as amended.

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Executed as of the ____ day of _____, 2024.

GRANTOR:

ICP GEAUGA LAKE LLC

By: _____
Name: Christopher S. Semarjian
Its: Manager

STATE OF OHIO)
)SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024 by Christopher S. Semarjian the Manager of ICP GEAUGA LAKE LLC on behalf of the company.

Notary Public

This Instrument prepared by:
Laura Wallerstein, Esq.
600 Superior Avenue
Suite 2100
Cleveland, Ohio 44114
lwallerstein@mcdonaldhopkins.com
330.815.4969

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Exhibit A
Property Description

To be attached as shown on Exhibit A to Purchase Agreement.

Exhibit D

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EXHIBIT E

Demolition Work

General Notes:

- Demolish all buildings and structures within the Limits of Disturbance.
 - Note that building #4 (Ticket Booths) and #11 (Aquarium) are not included as part of the Scope of Work of the main demolition.
 - All debris to be removed to an approved landfill.
- Demolish and remove all concrete including but not limited to, building pads, footers and foundations and roadways/paths and landscaping pavers.
 - Concrete to be removed to a minimum of 3 foot below existing grade.
 - Concrete to be processed and crushed to 2 inch or smaller and rebar and wire is to be removed.
 - Asphalt roadways and paths to be removed and disposed at an approved landfill.
- All brush and/or trees removed during demolition to be removed and disposed at an approved landfill.
- All disturbed areas are to be graded to match surrounding existing grade.
- Any excavations or low spots created during the demolition process are to be filled with crushed concrete from stock on-site to match existing surrounding grade.
- All disturbed areas are to be seeded and strawed with lawn seed with 90% germination rate.

- Addendum 1 (Building #4 - Ticket Booths) - BUILDINGS TO REMAIN
- Addendum 2 (Building #11 – Aquarium) - BUILDING TO REMAIN

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EXHIBIT F

Form of Portage Covenant

**TRAIL CONNECTION EASEMENT AND UTILITY
AGREEMENT**

By and Among

CITY OF AURORA, OHIO, an Ohio municipal corporation

AND

ICP GEAUGA LAKE LLC, an Ohio limited liability company

Prepared by and after recording return to:

Joshua E. Hurtuk, Esq.
Walter | Haverfield LLP
1301 E. 9th Street, Suite 3500
Cleveland, Ohio 44114

TRAIL CONNECTION EASEMENT AND UTILITY AGREEMENT

THIS TRAIL CONNECTION EASEMENT AND UTILITY AGREEMENT ("Agreement,") entered into as of the ____ day of _____, 2024, by and between the CITY OF AURORA, OHIO, an Ohio municipal corporation ("Aurora,") and ICP GEAUGA LAKE LLC, an Ohio limited liability company ("ICP.") Aurora and ICP are sometimes collectively referred to herein as the "Parties."

RECITALS

- A. Aurora is the fee simple owner of land located in the City of Aurora, Portage County, Ohio, which parcel of land is hereinafter referred to as the "Aurora Parcel." The Aurora Parcel is legally described on **Exhibit A** attached hereto and is depicted on **Exhibit C** (the "Site Plan,")
- B. ICP is the fee simple owner of land located in the City of Aurora, Portage County, Ohio, which parcel of land is hereinafter referred to as the "ICP Portage Parcel." The ICP Portage Parcel is legally described on **Exhibit B** attached hereto and is depicted on the Site Plan. The Aurora Parcel and the ICP Portage Parcel, and each portion of each as may be constituted from time to time is referred to herein as a "Parcel," and collectively as the "Parcels."
- C. The Parties each intend to create a recreational trail spanning the Parcels and desire to establish connectivity between the trail segments across the Parcels.
- D. The Parties contemplate that hereafter there may be one or more third parties that acquire a fee simple ownership interest (each, together with the Parties, an "Owner") or leasehold interest (each as "Occupant") in the Parcels. As such, the rights and obligations of the Parties pursuant to this Agreement may hereafter transfer to an applicable Owner and/or Occupant by assignment or as a covenant running with the Parcels.

NOW, THEREFORE, in consideration of the foregoing, the execution of this Agreement by the Parties hereto, the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, it is agreed as follows:

ARTICLE I EASEMENTS

1.1 Trail Connection.

After a Party constructs a recreational trail on its Parcel that approaches the property line of any other Parcel, regardless of any County line, and for so long as such recreational trail is in use, the second party must construct its recreational trail, if any, in a manner that connects to the existing trail.

1.2 Utilities.

In addition to the ICP Portage Parcel, ICP currently owns undeveloped property in Geauga County (the "Undeveloped Land,") which Undeveloped Land is legally described on **Exhibit D**, attached hereto and made a part hereof. Should utility services be needed for the Undeveloped Land and the provider of such utility services need to secure a reasonable easement across the

Aurora Parcel in order to establish such utility services, the owner of the Aurora Parcel shall not charge a fee for the easement rights needed to secure such utility services. In addition, the owner of the Aurora Parcel shall not unreasonably, withhold, condition, or delay approval of any such easement request so long as same will not materially interfere with the owner of the Aurora Parcel's development plans. For the avoidance of doubt, this provision does not preclude fees for ordinary tie in and construction costs that may be required to establish utility service. The terms and conditions of this Section 1.2 shall run with title to the Undeveloped Land and shall inure to the benefit of ICP, its successors and assigns.

ARTICLE II LAKEFRONT EASEMENT

2.1 Trail Easement and Maintenance.

ICP hereby grants to Aurora an exclusive perpetual easement for the use of a 30-foot wide strip of land on the ICP Portage Parcel, which area shall adjoin Geauga Lake (the "Trail Easement.") Aurora may access the Trail Easement from the Lake or through the ICP Portage Parcel from a public right of way to maintain and repair same at ICP's sole cost and expense. In addition, the owner of the Aurora Parcel may allow pedestrian access over the Trail Easement to the public. The Parties anticipate that ICP will construct a recreational trail within the Trail Easement and Aurora hereby agrees to not unreasonably withhold or condition approval of such construction. Aurora assumes no obligation to replace or re-construct any improvements within the Trail Easement after their useful life or a casualty.

ARTICLE III TERM AND TERMINATION

- 3.1 Term and Termination. This Agreement shall be effective as of the date first above written and shall continue in full force and effect until 11:59 p.m. on the date that is twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Joseph Biden, President of the United States, living as of the date of this Agreement (the "Term;") provided, however, that (i) the easements referred to in Article I and II hereof which are specified as being perpetual or as continuing beyond the Term of this Agreement shall continue in full force and effect as provided herein, and (ii) other time limits shall be as specifically provided in this Agreement. Except as provided in the preceding sentence, upon the termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Agreement shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit or affect any remedy at law or in equity that a Party may have against any other Party with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination.

ARTICLE IV GENERAL

4.1 No Covenant to Build. This Agreement shall not create or impose any obligation on any Owner to build, open, operate, or continuously operate, a business or any particular business on its respective Parcel(s).

4.2 Easements and Covenants Running With the Land.

- a. Each of the easements granted by this Agreement shall constitute a servitude on the property of the grantor and an appurtenance to the property of the grantee for the Term of this Agreement (unless otherwise stated to be perpetual), shall survive the total or partial destruction of the subject matter of the easement and/or the servient tenement of such grant, and shall run with the land. The grantee of any such easement may extend the benefits thereof to each of its tenants and/or occupants of the benefitted property. An estate for whose benefit an easement is established hereunder shall for the purposes of this Section 4.2 be deemed to be the grantee of such easement.
- b. It is intended that during the Term of this Agreement each and all of the covenants and agreements in this Agreement to be performed by or on the part of an Owner, whether affirmative or negative in nature, shall be construed as covenants and not as conditions. To the fullest extent legally possible, all such covenants by an Owner shall run with the land to the end that (i) the covenants of an Owner undertaking a burden on its Parcel shall be appurtenant to the benefitted Parcels, except as otherwise provided, and shall constitute covenants running with the land as between the respective Parcels, with the benefitted Parcel as the dominant tenement, and the burdened Parcel as the servient tenement.

4.3 Exhibits. All exhibits and schedules to this Agreement are by this reference made a part of this Agreement to the same extent as if the same had been written directly within the body of this Agreement.

4.4 Rights Cumulative. All rights, powers and privileges conferred hereunder shall be cumulative and not restricted to those given by law.

4.5 Partial Invalidity. If any covenant, term or condition of this Agreement or any application thereof shall be invalid or unenforceable, the remainder of this Agreement and any other application of such covenant, term or condition shall not be affected thereby.

4.6 Governing Law. This Agreement shall be construed according to, and be governed by, the laws of the state in which the Parcels are located.

4.7 Waiver of Performance by Any Party. One or more waivers of any covenant, term or condition of this Agreement by any Owner shall not be construed as a waiver of a subsequent breach of the same or any other covenant, term or condition; nor shall any delay or omission by any Owner to seek a remedy for any breach of this Agreement or to exercise a right accruing to such Owner by reason of such breach be deemed a waiver by such Owner of its remedies or rights with respect to such breach. The consent or approval by any Owner to or of any act by

another Owner requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any similar act.

4.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

4.9 Modification. This Agreement may be amended or modified only by recording in the appropriate county recording office for Portage County, Ohio, a document executed by all Owners.

4.10 Notice. Any notice, demand, consent, approval, request, statement, document or other communication required or permitted to be given to or served upon either Party hereto pursuant to this Agreement or applicable law shall be in writing and shall be sent by US Mail, electronic delivery (such as e-mail or facsimile), certified mail, or by a recognized national courier service, such as, but not limited to, Federal Express or United Parcel Service, postage prepaid, addressed and shall be deemed to have been given on the day after the date on which the notice was delivered to the overnight courier for delivery or electronic delivery, or two days after the date the notice was postmarked if the notice was sent by mail. The Parties may, by ten (10) days prior notice to the other Parties as aforesaid, designate a different address or different addresses to which communications intended for it are to be sent. Each Party's initial address for notices pursuant to this Section 4.10 are:

If to Aurora: City of Aurora
130 S. Chillicothe Road
Aurora, Ohio 44202
Attention: Law Director
Email: lawdepartment@auroraoh.com

With a copy to: McDonald Hopkins LLC
600 Superior Avenue, Suite 2100
Cleveland, Ohio 44114
Attention: David Gunning
Email: dgunning@mcdonaldhopkins.com

If to ICP: Industrial Commercial Properties LLC
6110 Parkland Blvd.
Cleveland, OH 44124
Attention: Legal Department
Email: legal@icpllc.com

With a copy to: Walter | Haverfield LLP
6110 Parkland Blvd., Suite 100
Cleveland, OH 44124
Attention: Edward A. Hurtuk, Esq.
Email: ehurtuk@walterhav.com

4.11 Time of Essence. Time is of the essence in the performance of the terms and conditions of this Agreement.

- 4.12 Estoppel Certificate. Each Owner severally covenants that within 15 business days after written request of the other Owners, it will from time to time, but not more than twice in any twelve (12) month period, issue to another Owner, to a prospective purchaser or lender or to any mortgagee of such Owner, an estoppel certificate stating: (i) whether to the best knowledge of the Party to whom the request has been directed, any default of the requesting Owner exists under this Agreement and, if there are known defaults, specifying the nature thereof; (ii) whether to its knowledge this Agreement has been modified or amended in any way (or if it has, then stating the nature thereof); and (iii) that to the Owner's knowledge this Agreement is, as of that date, in full force and effect.
- 4.13 Rule of Construction. The Parties and their counsel have reviewed and negotiated this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement, or any portion hereof, or any exhibits or amendments or agreements supplementary hereto.
- 4.14 No Joint Venture. Nothing contained in this Agreement shall be construed to make the Parties hereto partners or joint venturers or to render any Party liable for the debts or obligations of any other Party, except as this Agreement may expressly provide.
- 4.15 Agreement for Benefit of Parties Only. Except as otherwise expressly set forth herein, this Agreement is not intended to and shall not be construed to dedicate any rights or easements to the general public, nor to benefit any third parties which are not either Parties hereto nor their successors or assigns.
- 4.16 Right to Enjoin. In the event of any violation or threatened violation by any Owner or occupant of any term, restriction, condition or covenant of the terms of this Agreement, the Owner not in violation shall have the right, to seek actual damages or to enjoin such violation or threatened violation in a court of competent jurisdiction.
- 4.17 Waiver of Jury Trial. Each Owner hereby waives trial by jury, to the extent permitted by law, in any action, proceeding or counterclaim brought by an Owner against any other Owner hereto or any matter whatsoever arising out of or in any way connected with this Agreement, the relationship of the Owners, the use or occupancy of the Owners' respective parcels or any person claiming through or under an Owner, any claim of injury or damage, and any emergency or other statutory remedy; provided, however, the foregoing waiver shall not apply to any action for personal injury or property damage.
- 4.18 **Mortgagee Protection**. This Agreement, and the rights, obligations, covenants, conditions, restrictions and easements hereunder with respect to each Owner and Parcel, shall be superior and senior to any lien placed upon any Parcel, including the lien of any mortgage or deed of trust, but no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value. This Agreement, and all of the covenants, conditions, restrictions and easements hereunder, shall be binding upon and effective against any Owner (including any mortgagee or beneficiary under a deed of trust) who acquires

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title to any Parcel, or interest therein, by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

[Signature Pages Follow]

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**Signature Page For Aurora
To Trail Connection and Easement Agreement**

CITY OF AURORA, OHIO,

By: _____
Name: Ann Womer Benjamin
Title: Mayor

STATE OF OHIO)
) SS.:
COUNTY OF PORTAGE)

This is an acknowledgement clause. No oath or affirmation was administered to the signer.
On this the _____ day of _____, 2024, before me, a Notary Public duly
authorized in and for the said County in the State aforesaid to take acknowledgments, personally appeared
Ann Womer Benjamin, Mayor of the City of Aurora, Ohio, known to me to be the person whose name is
subscribed to the foregoing instrument and acknowledged having executed the same as a free and
voluntary act for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.
My Commission is permanent

Notary Public

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**Signature Page For ICP
To Trail Connection and Easement Agreement
ICP GEAUGA LAKE LLC,
an Ohio limited liability company**

By: _____
Name: Christopher S. Semarjian
Title: Manager

STATE OF OHIO)
) SS.:
COUNTY OF)

This is an acknowledgement clause. No oath or affirmation was administered to the singer.

On this the _____ day of _____, 2024, before me, a Notary Public duly authorized in and for the said County in the State aforesaid to take acknowledgments, personally appeared Christopher S. Semarjian, the Manager of ICP Geauga Lake LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged having executed the same as a free and voluntary act for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

Notary Public

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EXHIBIT A
[Aurora Parcel Legal Description]

PARCEL 1 (03-008-00-00-005-000)

That portion of Lot 8 in Aurora Township, Portage County, State of Ohio, and described as follows:

Beginning at the intersection of the Northern boundary of said Aurora Township with the Western line of Squires Road, 50 feet wide; thence along said Western boundary South 12 deg. 01' 30" West, 558.79 feet; thence South 9 deg. 48' 30" West, 426.13 feet; thence South 18 deg. 47' 30" West, 5.83 feet more or less to the most Easterly point of Maple Grove Allotment; thence North 75 deg. 11' 48" West, along the Northern line of said Maple Grove Allotment 1164.43 feet more or less to the Northwest corner of Lot 4 in said allotment; thence North 75 deg. 45' 20" West, 578.72 feet; thence North 11 deg. 42' 20" East, 77.06 feet; thence North 63 deg. 24' East, 245 feet; thence North 28 deg. 39' East, 440 feet more or less to a point on said Northern boundary of Aurora Township; thence along said boundary South 88 deg. 25' 48" East, 1432.47 feet to the point of beginning, as determined by Daniel E. Hartung Sr., R.S. #4453. The above description embraces 28.778 acres more or less.

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EXHIBIT B
[ICP Parcel Legal Description]

LEGAL DESCRIPTION FOR:

LOT 1

Aurora, Ohio

Lands shown are known as being part of Original Aurora Township Lot Number 1, now in the City of Aurora, County of Portage in the State of Ohio, further bounded and described as follows:

Beginning at the intersection of the centerline of North Aurora Road (S.R.43) (Width Varies) with the centerline of Lake Avenue (60 feet wide), said point being on the county line between Geauga County and Portage County, the same being the corporation line between the Township of Bainbridge and the City of Aurora; THENCE, South 89°56'18" East, along the southerly line of Bainbridge Township, a distance of 48.87 feet to the northeasterly line of North Aurora Road (S.R.43), and a 5/8" iron pin found, and the principal place of beginning of the parcel herein described;

THENCE, South 89°56'18" East, along the southerly line of Bainbridge Township, a distance of 556.47 feet to a 5/8" capped iron pin set;

THENCE, leaving said Bainbridge Township line along a new line, the following 5 courses;

THENCE, South 50°38'34" West, a distance of 40.28 feet to a point that falls in the water;

THENCE, South 19°24'13" West, a distance of 108.74 feet to a 5/8" capped iron pin set;

THENCE, South 04°32'02" West, a distance of 92.17 feet to a 5/8" capped iron pin set;

THENCE, South 08°36'50" East, a distance of 77.38 feet to a 5/8" capped iron pin set;

THENCE, South 54°11'49" West, a distance of 156.46 feet to a southerly corner of PPN: 03-001-10-00-002-000, land conveyed to Geauga Lake Improvement Association, and a 3/4" iron pipe found;

THENCE, South 35°47'58" East, along the southwesterly line of Geauga Lake Improvement Association, a distance of 139.20 feet to a 3/4" iron pipe found (0.27'NE./0.70'SE.);

THENCE, South 54°11'29" West, a distance of 35.82 feet to the northeasterly line of North Aurora Road (S.R.43), and a 3/4" iron pipe found (1.01'SE.);

THENCE, North 44°56'48" West, along said northeasterly line, a distance of 215.06 feet to an angle point therein and a 5/8" iron pin found;

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THENCE, North 35°48'03" West, continuing along said northeasterly line, 138.26 feet to a 5/8" iron pin found, 287.42 feet to a 5/8" iron pin found, a total distance of 456.52 feet to the principal place of beginning and containing 3.2304 Acres of land, based on a survey conducted in June of 2023, by John R. Alban, Ohio Professional Surveyor 7651.

Bearings are based upon an assumed meridian and are to be used for reference only.

All pins set are 5/8" x 30" rebar with yellow cap marked "J. Alban 7651".



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EXHIBIT C
[Site Plan]

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EXHIBIT D

[Legal Description of Benefitted Parcel for Utility Easement in Geauga County]

LEGAL DESCRIPTION FOR:

LOT 1

Bainbridge, Ohio

Lands shown are known as being part of Original Bainbridge Township Lot Numbers 28, 27 and 21, in Tract Number 3, situated now in the Township of Bainbridge, County of Geauga in the State of Ohio, further bounded and described as follows:

Beginning at the intersection of the southwesterly line of PPN: 02-900039, land conveyed to The Cleveland-Cuyahoga Railway Co., as recorded in Volume 1256, Page 1015 of Geauga County Records, and the centerline line of Brewster Road (60 feet wide):

THENCE, South 57°45'44" West, along the centerline of said Brewster Road, passing a 5/8" iron pin monument at 64.34 feet, a total distance of 702.03 feet to the corporation line between Bainbridge Township and the City of Aurora, and a Magnail set;

THENCE, North 89°56'18" West, along said corporation line, a distance of 39.94 feet to a Magnail set;

THENCE, North 09°36'23" East, leaving said corporation line, a distance of 16.18 feet to a Magnail set;

THENCE, North 08°25'53" West, a distance of 435.10 feet, along the centerline of vacated Depot Road Volume 20, Page 85 of Geauga County Records to a 5/8" capped iron pin set;

THENCE, North 87°41'51" West, a distance of 708.67 feet to a 5/8" capped iron pin set;

THENCE, North 29°56'59" East, a distance of 106.10 feet to a 5/8" capped iron pin set;

THENCE, North 05°57'19" East, a distance of 73.03 feet to a point which falls in the lake;

THENCE, North 05°22'42" West, a distance of 244.07 feet to a 5/8" capped iron pin set;

THENCE, North 08°39'17" West, a distance of 236.80 feet to a 5/8" capped iron pin set;

THENCE, North 51°50'21" West, a distance of 177.06 feet to a 5/8" capped iron pin set;

THENCE, North 89°02'45" West, a distance of 203.38 feet to a point which falls in the lake, passing through a 5/8" iron pin set at 93.38 feet;

THENCE, North 60°45'17" West, a distance of 145.88 feet to a point which falls in the lake, passing through a 5/8" iron pin set at 10.00 feet;

THENCE, North 36°20'00" West, a distance of 87.24 feet to a 5/8" capped iron pin set;

THENCE, North 48°47'35" West, a distance of 109.24 feet to a 5/8" capped iron pin set;

THENCE, North 65°37'31" West, a distance of 149.76 feet to a point which falls in the lake;

THENCE, North 02°47'09" West, a distance of 189.43 feet to a 5/8" capped iron pin set, passing through a 5/8" iron pin set at 100.00 feet;

THENCE, South 61°23'20" West, a distance of 177.66 feet to a 5/8" capped iron pin set;

THENCE, North 43°05'37" West, a distance of 32.67 feet to a 5/8" capped iron pin set;

THENCE, North 55°58'11" West, a distance of 75.34 feet to a 5/8" capped iron pin set;

THENCE, South 79°00'27" West, a distance of 145.38 feet to a MagNail set;

THENCE, South 64°53'29" West, a distance of 78.49 feet to a 5/8" capped iron pin set;

THENCE, South 36°55'26" West, a distance of 74.31 feet to a 5/8" capped iron pin set;

THENCE, South 01°30'01" East, a distance of 100.02 feet to a 5/8" capped iron pin set;

THENCE, South 73°08'58" West, a distance of 65.35 feet to a 5/8" capped iron pin set;

THENCE, North 82°13'49" West, a distance of 64.82 feet to a point which falls in the lake;

THENCE, South 85°38'34" West, a distance of 81.53 feet to a 5/8" capped iron pin set, passing through a 5/8" iron pin set at 25.00 feet;

THENCE, South 35°34'39" West, a distance of 159.67 feet to a 5/8" capped iron pin set;

THENCE, North 51°37'00" West, a distance of 14.11 feet to a 5/8" capped iron pin set;

THENCE, South 30°51'25" West, a distance of 153.66 feet to the northeasterly corner of PPN:02-12610, land conveyed to Aurora Apartments I, LLC, as recorded in Vol.2177, Pg.3256 of G.C.R., and a 5/8" capped iron pin set;

THENCE, North 65°35'10" West, along a northerly line of said Aurora Apartments I, LLC, a distance of 451.05 feet to a 5/8" capped iron pin set at the northwesterly corner of said Aurora Apartments I, LLC;

THENCE, along a new line, the following 9 courses:

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THENCE, along a curve deflecting to the left, an arc distance of 71.85 feet, said curve having a radius of 400.00 feet, a central angle of $10^{\circ}17'28''$, a chord bearing of North $13^{\circ}49'14''$ West having a length of 71.75 feet to a point of tangency and a $5/8''$ capped iron pin set;

THENCE, North $18^{\circ}57'59''$ West, a distance of 99.80 feet to a point of curvature and a $5/8''$ capped iron pin set;

THENCE, along a curve deflecting to the right, an arc distance of 418.76 feet, said curve having a radius of 340.00 feet, a central angle of $70^{\circ}34'06''$, a chord bearing of North $16^{\circ}19'04''$ East having a length of 392.79 feet to a point of tangency and a $5/8''$ capped iron pin set;

THENCE, North $51^{\circ}36'07''$ East, continuing along said sideline, a distance of 397.68 feet a $5/8''$ capped iron pin set at a point of curvature;

THENCE, along a curve deflecting to the right, an arc distance of 179.57 feet, said curve having a radius of 568.49 feet, a central angle of $18^{\circ}05'52''$, a chord bearing of North $60^{\circ}37'36''$ East having a length of 178.82 feet to a point of reverse curvature and a $5/8''$ capped iron pin set;

THENCE, along a curve deflecting to the left, an arc distance of 204.60 feet, said curve having a radius of 551.00 feet, a central angle of $21^{\circ}16'32''$, a chord bearing of North $59^{\circ}00'49''$ East having a length of 203.43 feet to a point of tangency and a $5/8''$ capped iron pin set;

THENCE, North $48^{\circ}22'33''$ East, a distance of 66.66 feet to a point of curvature and a $5/8''$ capped iron pin set;

THENCE, along a curve deflecting to the right, an arc distance of 29.61 feet, said curve having a radius of 30.00 feet, a central angle of $56^{\circ}32'42''$, a chord bearing of North $76^{\circ}39'07''$ East having a length of 28.42 feet to a point of tangency and a $5/8''$ capped iron pin set;

THENCE, South $75^{\circ}04'40''$ East, a distance of 32.52 feet to the southwesterly sideline of Depot Road (Width Varies) and a $5/8''$ capped iron pin set;

THENCE, along the southwesterly sideline of Depot Road the following 7 courses;

THENCE, South $33^{\circ}14'01''$ West, a distance of 7.00 feet to a $5/8''$ capped iron pin set;

THENCE, South $56^{\circ}45'59''$ East, a distance of 20.00 feet to a $5/8''$ capped iron pin set;

THENCE, North $33^{\circ}14'01''$ East, a distance of 7.00 feet to a $5/8''$ capped iron pin set;

THENCE, continuing along said southwesterly line, South $56^{\circ}45'59''$ East, a distance of 409.45 feet to a railroad spike found at an angle point;

THENCE, South $48^{\circ}55'02''$ East, along said southwesterly side line, a distance of 146.37 feet to a $5/8''$ capped iron pin found;

THENCE, North $73^{\circ}53'01''$ East, a distance of 52.88 feet to a $5/8''$ capped iron pin found;

THENCE, South $56^{\circ}46'38''$ East, along the southwesterly side line of Depot Road, a distance of 94.58 feet to $5/8''$ capped iron pin set;

THENCE, North $52^{\circ}25'04''$ East, a distance of 26.25 feet to a point in the centerline of Depot Road;

THENCE, North $56^{\circ}46'38''$ West along the centerline of Depot Road, a distance of 176.61 feet to a point in the centerline of Geauga Lake Road (60 feet wide);

THENCE, North $04^{\circ}24'47''$ West, along said Geauga Lake Road, a distance of 30.54 feet to the southerly line of PPN: 02-900039, land conveyed to the Cleveland-Cuyahoga Railway Co., as recorded in Vol.1256, Pg.1015 of G.C.R., and a railroad spike found;

THENCE, South $56^{\circ}46'38''$ East along the said southerly line, a distance of 265.05 feet to a $5/8''$ capped iron pin set;

THENCE, along the southerly lines of said Cleveland-Cuyahoga Railway Co., the following 8 courses;

THENCE, South $01^{\circ}04'37''$ East, a distance of 53.23 feet to a point and a $5/8''$ capped iron pin set;

THENCE, South $56^{\circ}46'38''$ East, a distance of 238.27 feet to a $5/8''$ capped iron pin set;

THENCE, North $40^{\circ}41'09''$ West, a distance of 158.65 feet to the southerly line of the Cleveland-Cuyahoga Railway Co., and a $5/8''$ capped iron pin set;

THENCE, South $56^{\circ}46'38''$ East, along said southerly line, a distance of 120.22 feet to railroad spike found;

THENCE, South $40^{\circ}39'28''$ East, passing a $5/8''$ iron pin found at 87.10 feet, a total distance of 411.85 feet to an iron pin monument found at a point of curvature;

Thence, along a curve deflecting to the left, an arc distance of 9.75 feet, said curve having a radius of 250.00 feet, a central angle of $02^{\circ}14'02''$, a chord bearing of South $41^{\circ}46'08''$ East having a length of 9.75 feet to a point therein;

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THENCE, North $31^{\circ}58'08''$ East, a distance of 113.53 feet to a 5/8" capped iron pin found (0.77"N.) at a corner of said Cleveland-Cuyahoga Railway Co.;

THENCE, along the southerly line of said Cleveland-Cuyahoga Railway Co., the following 2 courses:

THENCE, along a curve deflecting to the right, an arc distance of 702.72 feet, said curve having a radius of 11324.87 feet, a central angle of $03^{\circ}33'18''$, a chord bearing of South $53^{\circ}27'30''$ East having a length of 702.61 feet to a point of compound curvature, and a 5/8" capped iron pin found;

THENCE, along a curve deflecting to the right, an arc distance of 1224.35 feet, said curve having a radius of 4572.71 feet, a central angle of $15^{\circ}20'28''$, a chord bearing of South $43^{\circ}59'57''$ East having a length of 1220.69 feet to the place of beginning and containing 56.4526 acres of land of which 2.1661 acres are located within the right of way of Depot Road and 2.2420 acres lie within public right of way. Lot 1 is comprised of 16.1861 acres from PPN: 02-126600, 2.0426 acres from PPN: 02-125400, 2.2521 acres from PPN: 02-126000, 0.2727 acres from PPN: 02-125900, 4.4263 acres from PPN: 02-125600, 0.0793 acres from PPN: 02-125700, 9.7354 acres from PPN: 02-126200, 4.0156 acres from PPN: 02-125800, 1.8945 acres from PPN: 02-324300, 5.1893 acres from PPN: 02-324000, and 10.3587 acres in PPN: 02-324100, based on a survey conducted in May of 2024, by John R. Alban, Ohio Professional Surveyor 7651.

Subject to pipeline easement recorded in volume 196, page 452 of Geauga County Records.

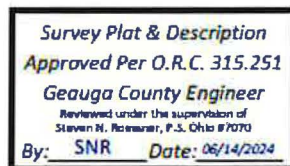
Bearings are based on Ohio State Plane, North Zone, NAD83 (2011), GRS 80 by GPS observations in March of 2023.

All pins set are 5/8" x 30" rebar with yellow cap marked "J. Alban 7651".

Prior Instruments of Record:

-ICP Geauga Lake, LLC, as recorded in Volume 2139, Page 2216 of G.C.R.

-ICP Geauga Lake, LLC, as recorded in Volume 2109, Page 316 of G.C.R.



24-066



EXHIBIT G

Depiction of Access Easement Area

