

AMENDED ORDINANCE NO. 15-19

By: Richard Sharp

An Ordinance accepting the donation of a Conservation Easement and 2.047 acres of real property adjacent to and east of Alum Creek to the City of Bexley.

WHEREAS, Leo's Land, LLC is the owner of certain property located in the City of Bexley being Franklin County Auditor's Parcel No. 020-000072 that is approximately 2.49 acres located adjacent to and east of Alum Creek and adjacent to and north of the property whose street address is 309 N. Parkview Avenue, which is on a private street with access to N. Parkview Avenue; and

WHEREAS, Leo's Land, LLC has offered to donate and convey to the City of Bexley a Conservation Easement on the 2.047 acre western portion of its land adjacent to Alum Creek to the City to be used for the protection and preservation of the natural habitat and protection and maintenance of riparian rights associated with Alum Creek (the "Conservation Easement"), as shown on attached Exhibit 1; and

WHEREAS, Leo's Land, LLC has also offered to donate and convey to the City of Bexley the 2.047 acre western portion of its land adjacent to Alum Creek by quitclaim deed to the City as shown on attached Exhibit 2 (the "Property"); and

WHEREAS, the remaining 0.460 acre eastern portion of the 2.49 acre parcel of Leo's Land, LLC has been or will be conveyed by Leo's Land, LLC and combined with Franklin County Auditor's Parcel No. 020-004681 being Lot 7 of the Resubdivision of Lot Numbers 1, 2, 5 and 6 of Walter Jeffrey Addition plat recorded in Plat Book 84, Page 67 (Instrument No. 190001010011219), whose street address is 309 N. Parkview Avenue in the City of Bexley; and

WHEREAS, David Kass is the owner of Franklin County Auditor's Parcel No. 020-004681 at 309 N. Parkview Avenue and has or will convey to Leo's Land, LLC a non-exclusive easement over the portion of Parcel No. 020-004681 and the adjacent 0.460 acres he is acquiring as described above for limited ingress and egress easement to the Property (the "Access Easement"); and

WHEREAS, it is in the interest and benefit of the City of Bexley and public at large that the City accept the donation of such Conservation Easement and Property.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Bexley, County of Franklin, State of Ohio, that:

Section 1. The City of Bexley accepts donation of a 2.047 acre easement from Leo's Land, LLC to the City of Bexley for conservation purposes as and for public use, by a

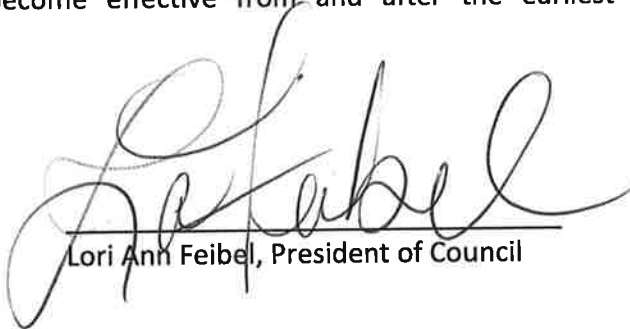
Conservation Easement in a form substantially similar as the Conservation Easement attached hereto as Exhibit 1.

Section 2. The City of Bexley accepts donation of 2.047 acres of land from Leo's Land, LLC to the City of Bexley, by Quitclaim Deed in a form substantially similar as the Quitclaim Deed for the Property attached hereto as Exhibit 2. Leo's Land, LLC shall pay, and be responsible for the payment of, any and all real property taxes and assessments that are, or that may become due, if any, on the land being deeded to the City herein, up to the time the deed is recorded with the Office of the Franklin County Recorder.

Section 3. The Mayor is authorized to do all acts and to execute all agreements and instruments appropriate or necessary to facilitate and carry out the donation and acceptance of the property and property interests identified in this ordinance, and to make any minor modifications to the instruments attached to this ordinance that are necessary to carry out the intent of this ordinance and the recording of the deed and easements.

Section 4. This Ordinance shall become effective from and after the earliest period provided by law.

Passed May 28th, 2019




Lori Ann Feibel, President of Council

Attest: 

William Harvey, Clerk of Council

Approved: May 28th, 2019



Ben Kessler, Mayor

First Reading: 4-23-2019

Second Reading: 5-14-2019

Third Reading: 5-28-2019

Passed: May 28, 2019

CONSERVATION EASEMENT

For no consideration and solely as a charitable donation of a partial interest in real estate constituting a "qualified conservation contribution" as defined under §170(f)(3)(B)(iii) of the Internal Revenue Code of 1986 (the "Code") to an organization constituting a "qualified organization" as defined under §170(h) of the Code, LEO'S LAND, LLC, an Ohio limited liability company ("Grantor"), as owner of the real property described on Exhibit A (the "Property"), does hereby grant and convey to the CITY OF BEXLEY, a municipal corporation ("Grantee"), a perpetual, exclusive easement upon the Property for the exclusive purpose of advancing the Conservation Purpose described below (that easement, the "Conservation Easement"). The Conservation Easement empowers Grantee to block activities, uses, and improvements inconsistent with the Conservation Purpose.

1. Conservation Purpose. The objectives of the Conservation Easement are to protect and preserve natural habitat for wildlife and plants native to the area and to maintain and protect riparian rights associated with Alum Creek by allowing the Property to grow fallow (the "Conservation Purpose"). In connection with achieving the Conservation Purpose, (i) Grantee may introduce native plant species on the Property, (ii) construction of any new improvements on the Property and the surface exploration, development, mining, or extraction of soil, sand, gravel, mineral, oil, gas, or other substance from the surface of the Property is prohibited, (iii) no fencing or similar barriers may be erected on the Property except that fencing existing on the date this Conservation Easement is recorded may be repaired or replaced with similar fencing, and (iv) no signage may be installed on the Property except for "no trespassing" signs, signs identifying the Property as a conservation area, and other signs that may be required by law, and any such permitted sign shall be no larger than that required to serve its intended purpose and consistent with the Conservation Purpose.
2. Maintenance. Grantee may trim or remove trees and other vegetation on the Property the condition of which poses a safety hazard to residences abutting the Property or to mitigate disease or invasive species. Grantee may also mow or cause to be mowed grass within the Property as Grantee deems necessary so long as the Conservation Purpose is in all other respects maintained. Grantee shall prohibit access to the Property except in connection with the exercise of such maintenance rights.
3. Federal Tax Items. This Conservation Easement has been donated by Grantor and the donation of the Conservation Easement by this grant is intended to qualify as a "qualified conservation contribution" for purposes of §170(f)(3)(B)(iii) of the Code and applicable Treasury Regulations related thereto (the "Regulations"), and this Conservation Easement shall be construed and applied accordingly.
 - a. Grantor represents that no person has retained a qualified mineral interest in the Property of a nature that would disqualify the Conservation Easement for purposes of §1.170A-14(g)(4) of the Regulations. From and after the date hereof the grant of such an interest is prohibited and Grantee has the right to prohibit the exercise of such a right or interest if granted in violation of this provision.

- b. To the extent required for compliance with §1.170A-14(g)(5)(ii) of the Regulations Grantor agrees to notify Grantee before exercising any reserved rights that may have an adverse impact on the conservation interests associated with the Conservation Easement.
 - c. In accordance with §1.170A-14(g)(6) of the Regulations, Grantor agrees that (i) the grant of the Conservation Easement gives rise to a real estate right immediately vested in Grantee that entitles Grantee to compensation upon extinguishment of the easement; (ii) the fair market value of the easement shall be determined in accordance with the Regulations; and (iii) extinguishment for unexpected changes that make impossible or impractical the continued use of the Conservation Easement for conservation purposes (as defined in the Regulations) can only be accomplished by judicial proceedings and Grantee's proceeds (as determined under the Regulations) from any sale or exchange of the Conservation Easement must be used by Grantee in a manner consistent with the Conservation Purpose.
 - d. If the Conservation Easement is transferred, the transferee must commit to hold the Conservation Easement exclusively for the Conservation Purpose.
 - e. No goods or services were delivered to Grantor in consideration of this grant and this grant is not conditioned upon the availability or amount of a deduction, credit or other benefit under applicable law.
4. Transferees; No Merger. In support of the Conservation Purpose, Grantee will not transfer this Conservation Easement or otherwise assign its rights or responsibilities under this grant to any person or entity other than a "qualified organization" under §170(h)(3) of the Code committed to upholding the Conservation Purpose. Subject to the foregoing, this Conservation Easement shall run with the land. In the event Grantee or any future holder of this Conservation Easement shall obtain the remaining fee interest in the Property, this Conservation Easement shall not merge with such fee interest.

IN WITNESS WHEREOF, this Conservation Easement shall become effective on the date this instrument is recorded in the real property records of Franklin County, Ohio.

GRANTOR:

LEO'S LAND, LLC

By: _____
David E. Kass, Manager and Sole Member

GRANTEE:

CITY OF BEXLEY

By: _____
Name:
Title:

STATE OF OHIO §
 §
COUNTY OF FRANKLIN §

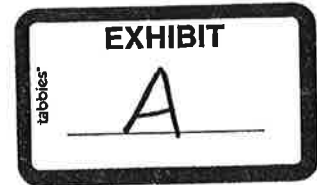
This instrument was acknowledged before me on _____, 2019, by David E. Kass, Manager and Sole Member of Leo's Land, LLC, an Ohio limited liability company, on behalf of said company.

Notary Public in and for
the State of Ohio

STATE OF OHIO §
 §
COUNTY OF FRANKLIN §

This instrument was acknowledged before me on _____, 2019, by _____,
_____ of City of Bexley, a municipal corporation, on behalf of said corporation.

Notary Public in and for
the State of Ohio



**LEGAL DESCRIPTION
2.047 ACRES**

Situated in the State of Ohio, County of Franklin, City of Bexley, being in half Section 16, Township 5, Range 22 in the Refugee Lands and being a part of Lot Number One (1) which was set off and assigned to Anne Eliza Nelson by the Court of Common Pleas of Franklin County, Ohio in the case of John J. Nelson, et al. against Charles Eldridge and Catherine Eldridge and as designated on the plat of partition in said case as recorded in Complete Record No. 20, Page 458, and also being part of the remainder of a 3.24 acre tract as conveyed to Leo's Land, LLC in Instrument Number 200501110006983 as further described as follows;

Commencing at a 3/4" pipe capped "ZANDE" at the southeast corner of a 1.640 acre tract as conveyed to Melanie Schottenstein in Instrument Number 201307120117099, the northeast corner of the Resubdivision of Lot Numbers 1, 2, 5 and 6 of Walter Jeffery Addition as recorded in Plat Book 84, Page 67, the northeast corner of Lot 8 in the said Resubdivision of Lot Numbers 1, 2, 5 and 6 of Walter Jeffery Addition as conveyed to Audrey G. Tuckerman Trust dated November 3, 1995 in Instrument Number 200406030128197, being in the westerly right of way line of North Parkview Avenue (80' R/W);

Thence with the south line of said 1.640 acre tract, the north line of said Resubdivision of Lot Numbers 1, 2, 5 and 6 of Walter Jeffery Addition and the north line of said Lot 8, **N 85° 52' 06" W, 265.25 feet** to an angle point in said line;

Thence continuing with the south line of said 1.640 acre tract, the north line of said Resubdivision of Lot Numbers 1, 2, 5 and 6 of Walter Jeffery Addition, the north line of said Lot 8 and also with the north line of Lot 7 of said Resubdivision of Lot Numbers 1, 2, 5 and 6 of Walter Jeffery Addition as conveyed to David E. Kass in Instrument Number 199808110202678 and the south line of the remainder of said 3.24 acre tract, **N 85° 57' 51" W, 360.36 feet** to an iron pin set at the northwest corner of said Lot 7 and the northeast corner of Lot 6 of said Resubdivision of Lot Numbers 1, 2, 5 and 6 of Walter Jeffery Addition as conveyed to Matthew L. Vaughan and Annette O. Vaughan in Instrument Number 201802080017971, and being the **TRUE POINT OF BEGINNING** for the land herein described as follows;

Thence continuing with the south line of the remainder of said 3.24 acre tract, the north line of said Lot 6 and the north line of Lot 4 of the Walter Jeffery Addition as recorded in Plat Book 73, Page 15 as conveyed to Carey Collins Kurg and Peter J. Kurg, **N 85° 57' 51" W**, passing an iron pin set at 574.65 feet, **a total distance of 624.65 feet** to the southwest corner of the remainder of said 3.24 acre tract, the northwest corner of said Lot 4, and being in the centerline of Alum Creek;

Thence with the west line of the remainder of said 3.24 acre tract and the meanders of the centerline of Alum Creek, **N 02° 31' 07" E, 65.13 feet**;

Thence with the west line of the remainder of said 3.24 acre tract and the meanders of the centerline of Alum Creek, **N 37° 52' 41" E, 97.18 feet** to the northwest corner of the remainder of said 3.24 acre tract and the southwest corner of a tract as conveyed to Howard Belford Trustee of The 361 North Parkview Trust dated January 31, 2006 in Instrument Number 200604260078145, Parcel Two;

Thence with the north line of the remainder of said 3.24 acre tract and the south line of said Parcel Two, **S 85° 59' 19" E**, passing an iron pin set at 50.00 feet, **a total distance of 572.25 feet** to an iron pin set;

Thence crossing the remainder of said 3.24 acre tract, **S 04° 02' 09" W, 146.07 feet** to the **TRUE POINT OF BEGINNING**, containing **2.047 acres**, more or less.

The above description was prepared by Advanced Civil Design Inc. and based on existing Franklin County records, along with an actual field survey performed April, 2019. A drawing of the above description is attached hereto and made a part thereof.

Iron pins set are 3/4" diameter, 30" long pipe with plastic cap inscribed "Advanced 7661".

Bearings are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (NSRS2007). Said bearings were derived from GPS observation and determine a portion of the centerline of North Parkview Avenue having a bearing of S03°48'00"W.

All references used in this description can be found at the Recorder's Office Franklin County, Ohio.



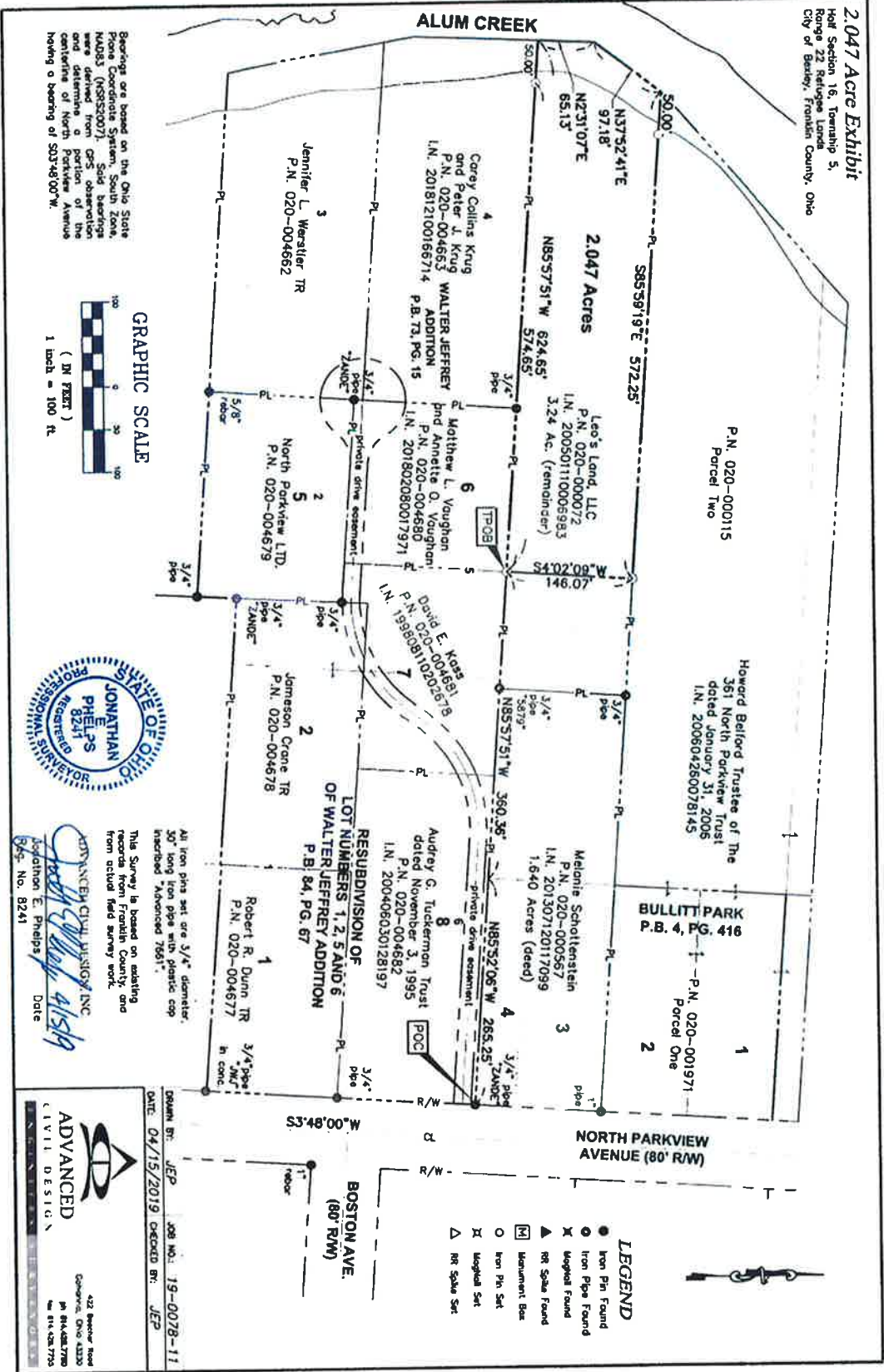
ADVANCED CIVIL DESIGN INC.

Jonathan E. Phelps 4/15/19
Jonathan E. Phelps, PS
Registration No. 8241

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2.047 Acre Exhibit
 Half Section 16, Township 5,
 Range 22, Refugee Lands
 City of Beavercreek, Franklin County, Ohio



Bearings are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (NSRS2007). Said bearings were derived from GPS observation and determine a portion of the centerline of North Parkview Avenue having a bearing of S03°48'00"W.



ADVANCED CIVIL DESIGN, INC.
 Jonathan E. Phelps
 Date: 04/15/2019

All iron pins set are 3/4" diameter, 30" long iron pipe with plastic cap inscribed "Advanced 7651".
 This Survey is based on making records from Franklin County, Ohio from actual field survey work.

- LEGEND**
- Iron Pin Found
 - Iron Pipe Found
 - ✕ Mapped Found
 - ▲ Ret. Scale Found
 - [M] Monument Box
 - Iron Pin Set
 - ✕ Mapped Set
 - △ Ret. Scale Set

ADVANCED CIVIL DESIGN, INC.
 422 Beecher Road
 Columbus, Ohio 43230
 PH 614-428-7780
 FX 614-428-7750

EXAMINER: JEP JOB NO.: 19-0078-11
 DATE: 04/15/2019 CHECKED BY: JEP

QUITCLAIM DEED

STATE OF OHIO §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF FRANKLIN §

THAT, for no consideration and solely as a charitable donation to a political subdivision of the State of Ohio for a public purpose, LEO’S LAND, LLC, an Ohio limited liability company (“Grantor”), does grant and quitclaim to CITY of BEXLEY, a municipal corporation (“Grantee”), whose address is 2242 E. Main Street, Bexley, Ohio 43209, that certain tract of real property situated in Franklin County, Ohio, and described in Exhibit A attached hereto and made a part hereof for all purposes, together with all and singular Grantor’s right, title, interest, claim and demand in and to the rights, privileges, hereditaments and appurtenances pertaining to such real property (the “Property”).

EXECUTED to be effective the ____ day of _____, 2019.

GRANTOR:

LEO’S LAND, LLC

By: _____
David E. Kass, Manager and Sole Member

STATE OF OHIO §
 §
COUNTY OF FRANKLIN §

This instrument was acknowledged before me on _____, 2019, by David E. Kass, Manager and Sole Member of Leo’s Land, LLC, an Ohio limited liability company, on behalf of said company.

Notary Public in and for
the State of Ohio

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