

City of Cuyahoga Falls, Ohio

Notice of Special City Council Meeting

Notice is hereby given that a Special Meeting of City Council will be held on Monday, August 11, 2014 at 6:30 p.m. for the following purposes.

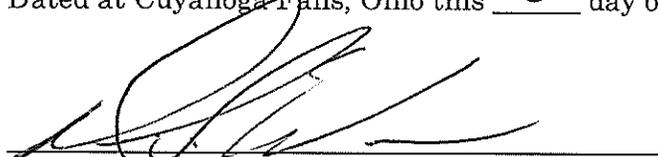
1. To introduce a substitute for, consider and vote on the following ordinance:

Temp. Ord. A-78:

AN ORDINANCE AUTHORIZING THE PURCHASE OF THE MILL POND PROPERTY OWNED BY FIRST AKRON DEVELOPMENT CORPORATION TO ASSIST IN REDEVELOPMENT BY MENARD, INC. TO CREATE JOB AND EMPLOYMENT OPPORTUNITIES, TO PROTECT OPEN SPACE AND TO CREATE RECREATIONAL AND STORM WATER MANAGEMENT OPPORTUNITIES; AND DECLARING AN EMERGENCY.

2. To conduct any other business, including without limitation, rules suspensions and executive sessions necessary to accomplish the foregoing.

Dated at Cuyahoga Falls, Ohio this 8th day of August, 2014.



Don Walters
Mayor

2
3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. - 2014

7
8 AN ORDINANCE AUTHORIZING THE PURCHASE OF THE
9 MILL POND PROPERTY OWNED BY FIRST AKRON
10 DEVELOPMENT CORPORATION TO ASSIST IN
11 REDEVELOPMENT BY MENARD, INC. TO CREATE JOB
12 AND EMPLOYMENT OPPORTUNITIES, TO PROTECT OPEN
13 SPACE AND TO CREATE RECREATIONAL AND STORM
14 WATER MANAGEMENT OPPORTUNITIES; AND
15 DECLARING AN EMERGENCY.
16
17

18 WHEREAS, the City has agreed to purchase the Mill Pond property ("Property"),
19 which consists of approximately 24.0082 acres, to protect open space and to create
20 recreational and storm water management opportunities; and
21

22 WHEREAS, in connection with the City's purchase of the Property to protect open
23 space and create recreational and storm water management opportunities, Menard, Inc.
24 will create approximately 140 new job and employment opportunities and invest
25 \$8,500,000 in land and building improvements at/near the former Giant Eagle site on
26 Graham Road which will soon become vacant; and
27

28 WHEREAS, Council finds and determines that the purchase of the Property is in
29 the public interest and serves the public good and will improve the economic welfare of
30 the citizens of Cuyahoga Falls.
31

32 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga
33 Falls, County of Summit and State of Ohio, that:
34

35 Section 1. This Council hereby finds and determines that the purchase of the
36 Property from First Akron Development Corporation is necessary for the public purposes
37 of creating job and employment opportunities and improving the economic welfare of the
38 people, to protect open space and to create recreational and storm water management
39 opportunities.
40

41 Section 2. This Council approves the purchase of the Property as set forth in
42 Exhibit A attached hereto and made a part of this ordinance. The amount of the purchase
43 shall not exceed \$600,000 plus other costs associated with the purchase of the property,
44 including but not limited to survey costs, recording fees, title company fees, title
45 insurance and taxes. The Mayor and Director of Community Development are hereby
46 authorized to execute a Purchase, Sale and Development Agreement in substantially the
47 form on file with the Clerk, together with such revisions or additions thereto as are

48 approved by the Mayor, Director of Community Development and Director of Law, and
49 are consistent with the objectives and requirements provided in this ordinance. The Mayor
50 is authorized to accept such deed or deeds as is necessary to carry out such Agreement,
51 and the Mayor and Director of Community Development, Director of Finance, Director of
52 Law, and other City officials, as appropriate, are authorized to provide such information
53 and to execute, certify or furnish such other documents, and do all other things as are
54 necessary for and incidental to carrying out said purchase of Property pursuant to the
55 Agreement.
56

57 Section 3. The transaction set forth in Section 2 of this ordinance is contingent
58 upon: (1) First Akron Development Corporation and Menard, Inc. closing their real estate
59 transaction for 9.3 acres; (2) completion of environmental studies that are acceptable to
60 the City; and (3) the City and Menard, Inc. entering into an agreement for job creation
61 related to the intended development of a retail facility on the proposed Menard site on
62 Graham Road, Cuyahoga Falls, Ohio.
63

64 Section 4. It is found and determined that all formal actions of this Council
65 concerning and relating to the passage of this ordinance were taken in an open meeting
66 of this Council and that all deliberations of this Council and of any committees that
67 resulted in those formal actions were in meetings open to the public, in compliance with
68 all legal requirements including Chapter 107 of the Codified Ordinances.
69
70

71 Section 5. This ordinance is hereby declared to be an emergency measure
72 necessary for the preservation of the public peace, health, safety, convenience and welfare
73 of the City, and for the further reasons that it is necessary to purchase the Property as
74 soon as possible to create job and employment opportunities, and to enhance the
75 availability of open space, recreational and storm water management opportunities, and
76 provided it receives the affirmative vote of two-thirds of the members elected or appointed
77 to Council, it shall take effect and be in force immediately upon its passage and approval
78 by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed
79 by law.
80
81

82 Passed: _____

President of Council

Clerk of Council

90 Approved _____

Mayor

91 8/11/14

92 O:\2014ords\Menards Substitute Ordinance.docx
93

Exhibit A

GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782 • www.GBCdesign.com

June 26, 2014

LEGAL DESCRIPTION

First Akron Development Corporation
Cuyahoga Falls, Ohio
Lot Split Parcel – 24.0082 Acres

Situated in the City of Cuyahoga Falls, County of Summit, State of Ohio and known as being part of Original Lot 17 and part of Original Lot 27 of former Northampton Township, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Deed Volume 4006, Page 181 of the Summit County records, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Reception No. 55453810 of the Summit County records and more fully described as follows:

Beginning at a 5/8" capped rebar (GBC Design, Inc.) found at the northeasterly corner of Lot 3 of Kaye Subdivision as recorded in Reception #55056619 of the Summit County records;

Thence S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 186.68 feet to a 5/8" capped rebar (GBC Design, Inc.) found, which is the True Place of Beginning for the parcel of land herein described;

Thence continuing S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 49.74 feet to a point in Mud Run;

Thence S 27° 24' 38" W, along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 75.00 feet to a point in Mud Run;

Thence S 51° 15' 38" W, continuing along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 62.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 26° 23' 38" W, continuing along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 107.15 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 50° 12' 12" W, along the northerly line of Falls Catholic Credit Union Inc. as recorded in Reception #54735364 of the Summit County records, also along the northerly line of lands now or formerly owned by Family Video Movie Club, Inc. as recorded in Reception #54762522 of the Summit county records, a distance of 276.83 feet to a point in Mud Run;

Thence S 63° 15' 22" W, continuing along the northerly line of said Family Video Movie Club, Inc. lands, a distance of 99.00 feet to a point in Mud Run on the westerly line of said Original Lot 17;

Thence N 01° 05' 05" W, along the westerly line of said Original Lot 17, also being the easterly line of lands now or formerly owned by Family Video Movie Club, Inc. as recorded in Reception #54762520 of the Summit county records, a distance of 71.61 feet to a point (witnessed by a capped rebar (L. Butterworth RLS5196) found S 60° 43' 28" W, 1.47');

Thence N 60° 43' 28" E, along a southerly line of People Care Park as recorded in Plat Cabinet "C", Slides 376-377 of the Summit County records, a distance of 130.49 feet to a capped rebar (Bock & Clark) found;

Lot Split Parcel
24.0082 Acres
Page 2 of 4
June 26, 2014

Thence N 33° 05' 48" E, continuing along a southerly line of said People Care Park, a distance of 493.17 feet to a point in Mud Run;

Thence N 47° 13' 48" W, along a northerly line of said People Care Park, a distance of 108.68 feet to a capped rebar (Campbell & Assoc., Inc.) found;

Thence S 86° 25' 08" W, continuing along a northerly line of said People Care Park, a distance of 220.65 feet to a point (witnessed by a capped rebar (Bock & Clark) found S 09° 23' 31" E, 0.19");

Thence N 51° 33' 10" W, continuing along a northerly line of said People Care Park, a distance of 210.11 feet to a capped rebar (Bock & Clark) found;

Thence S 79° 22' 59" W, continuing along a northerly line of said People Care Park, a distance of 175.75 feet to a bent capped rebar (Bock & Clark) found;

Thence N 69° 58' 57" W, continuing along a northerly line of said People Care Park, a distance of 134.80 feet to a capped rebar (Bock & Clark) found;

Thence S 49° 38' 47" W, continuing along a northerly line of said People Care Park, passing over a capped rebar (Bock & Clark) found at 75.48 feet, a distance of 117.29 feet to a point;

Thence along the centerline of Cleveland-Akron Road (A.K.A. State Road, S.R. 8, C.H. 16) width varies, along the arc of a circle curving to the right having a central angle of 26° 43' 55", a radius of 1909.86 feet, a tangent of 453.79 feet, a chord of 883.00 feet, a chord bearing of N 10° 15' 19" W, and an arc length of 891.06 feet to point;

Thence N 89° 23' 35" E, along the southerly line of lands now or formerly owned by Emidio & Sons as recorded in Reception #55940312 of the Summit County records, passing over a 1" bent iron pipe found at 40.09 feet, a distance of 831.12 feet to a point (witnessed by a 1" bent rebar found N 89° 23' 35" E, 0.22");

Thence S 00° 39' 45" E, along the westerly line of lands now or formerly owned by Emidio & Sons as recorded in Reception #55940328 of the Summit County records, a distance of 151.86 feet to a 1" bar w/dimple found;;

Thence N 57° 10' 12" E, along a southerly line of said Emidio & Sons lands, a distance of 275.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 67° 19' 13" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 110.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 86° 49' 48" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 100.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 82° 07' 18" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 113.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 60° 46' 18" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 211.06 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 00° 59' 40" W, along the easterly line of said Emidio & Sons lands, a distance of 356.34 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 89° 03' 05" E, along the southerly line of East Bath Road (C.H. 48) width varies, a distance of 50.00 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Lot Split Parcel
24.0082 Acres
Page 3 of 4
June 26, 2014

Thence S 00° 59' 40" E, along a new line of division, a distance of 386.21 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 60° 46' 18" W, along a new line of division, a distance of 250.39 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 82° 07' 18" W, along a new line of division, a distance of 124.48 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 86° 49' 48" W, along a new line of division, a distance of 93.46 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 67° 19' 13" W, along a new line of division, a distance of 96.96 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 57° 10' 12" W, along a new line of division, a distance of 381.12 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 26° 17' 41" E, along a new line of division, a distance of 397.53 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 69° 23' 58" E, along a new line of division, a distance of 253.47 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 41° 26' 08" E, along a new line of division, a distance of 115.12 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 69° 32' 43" E, along a new line of division, a distance of 97.79 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 74° 27' 33" E, along a new line of division, a distance of 123.00 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 56° 20' 05" E, along a new line of division, a distance of 118.90 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 87° 02' 04" E, along a new line of division, a distance of 165.15 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 52° 52' 38" E, along a new line of division, a distance of 320.21 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 00° 31' 54" W, along the westerly line of Meadowood Apartments Subdivision as recorded in Plat Cabinet "A", Slides 346-348 of the Summit County records, a distance of 103.13 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 73° 46' 38" W, along a new line of division, a distance of 184.72 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 41° 41' 34" W, along a new line of division, a distance of 179.23 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 88° 51' 55" W, along a new line of division, a distance of 108.06 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 32° 29' 44" W, along a new line of division, a distance of 143.26 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 76° 39' 07" W, along a new line of division, a distance of 100.45 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Lot Split Parcel
24.0082 Acres
Page 4 of 4
June 26, 2014

Thence N 67° 21' 35" W, along a new line of division, a distance of 136.34 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

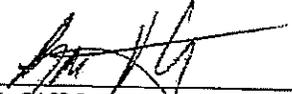
Thence S 63° 12' 48" W, along a new line of division, a distance of 257.29 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

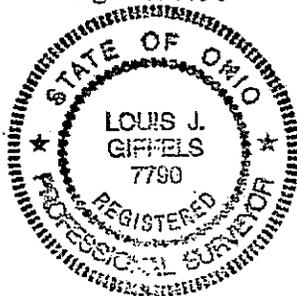
Thence S 37° 11' 29" E, along a new line of division, a distance of 193.83 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 03° 30' 50" W, along a new line of division, a distance of 192.05 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 22° 52' 38" W, along a westerly line of lands now or formerly owned by 101 Kappa Drive Association as recorded in Deed Volume 7180, Page 86 of the Summit County records, a distance of 116.73 feet to the True Place of Beginning and containing 24.0082 Acres of land (13.1782 Acres in Original Lot 17 & 10.8300 Acres in Original Lot 27), more or less, as surveyed in June, 2014 by Louis J. Giffels, Registered Surveyor No. 7790 with GBC Design, Inc., but subject to all legal highways and any restrictions, reservations or easements of record.

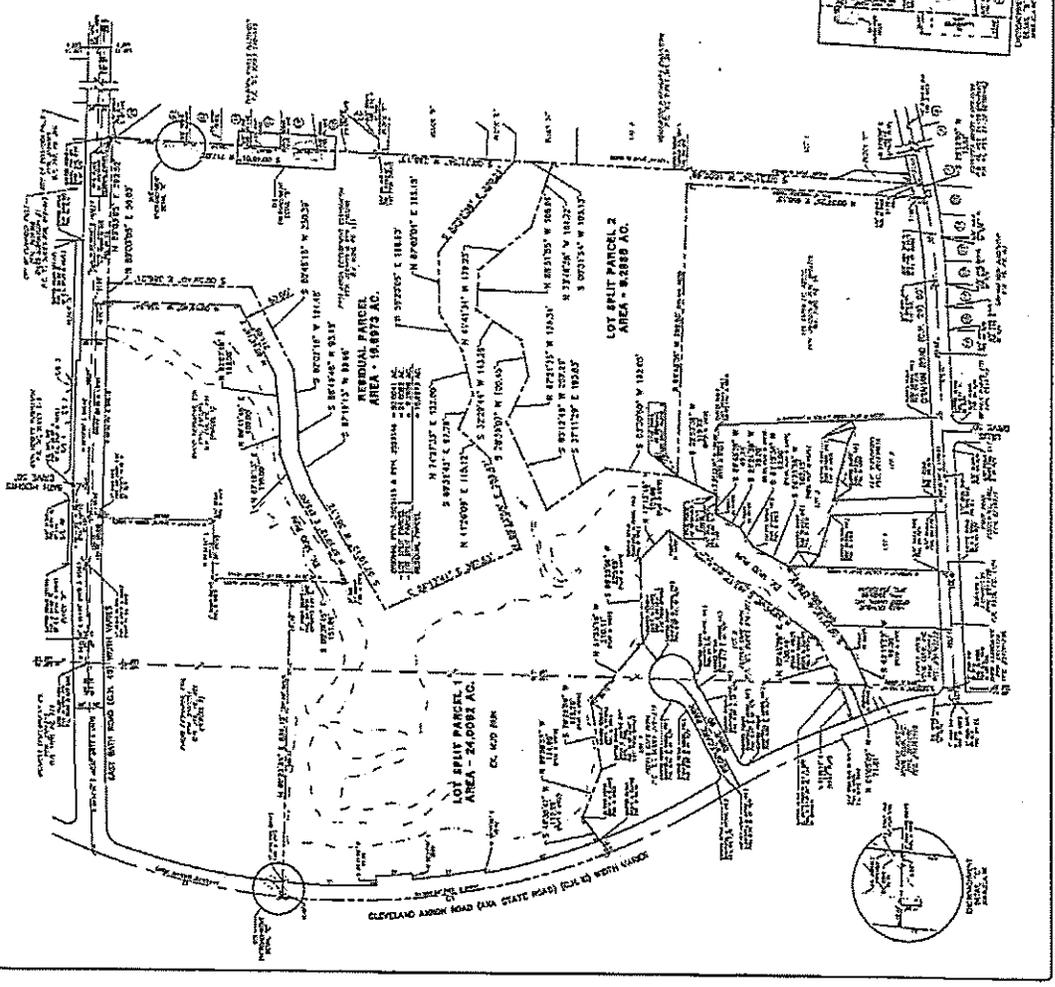
**Basis of bearing for this survey is the Ohio State Plane Coordinate System NAD83, Grid North.


Louis J. Giffels, P.S. Reg. No. 7790



GBC DESIGN, INC.
 100-100-100-100
 100-100-100-100

THIS PLAN IS A PART OF THE PROJECT AND IS NOT TO BE USED SEPARATELY FROM THE OTHER PARTS OF THE PROJECT. THE CITY ENGINEER'S OFFICE HAS REVIEWED THIS PLAN AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY CODE AND ORDINANCES. THE CITY ENGINEER'S OFFICE IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS PLAN.



NO.	DESCRIPTION	AREA (AC)
1	LOT SPLIT PARCEL 1 AREA	24,008.1
2	LOT SPLIT PARCEL 2 AREA	8,889.0
3	RESIDUAL PARCEL AREA	14,897.3

Budget Information Sheet

Ordinance Number: Temporary A-78

Nature of Expenditure: An ordinance authorizing the purchase of the Mill Pond Property owned by First Akron Development Corporation to assist in redevelopment by Menard's to create job and employment opportunities, to protect open space and to create recreational and storm water management opportunities.

Total Estimated Cost: \$600,000.00

Last Year's Cost: \$0.00

Was item budgeted? No

Budget Information:	<u>Fund</u>	<u>Department</u>	<u>Category</u>	<u>Amount</u>
	CDBG	Capital Outlay	Capital Outlay	\$358,844.29
	Guarantee Deposits Fund	Fiduciary	Land Preservation	\$241,155.71
				<hr/> <hr/>
				\$600,000.00

Brief description of the expenditure:

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

OFFER, RECEIPT AND ACCEPTANCE

This Purchase, Sale and Development Agreement (the "Agreement") dated as of August ____, 2014 is between the City of Cuyahoga Falls, Ohio, a municipal corporation, whose mailing address is Cuyahoga Falls Municipal Building, 2310 Second Street, Cuyahoga Falls, Ohio 44221 ("CITY"), Menard, Inc., a Wisconsin corporation, whose mailing address is 5101 Menard Drive, Eau Claire, WI 54703 ("MENARD"), and First Akron Development Corporation, an Ohio corporation, whose mailing address is 388 S. Main Street, Suite 500, Akron, Ohio 44311 ("SELLER").

RECITALS

WHEREAS, SELLER owns certain property which CITY and MENARD each desire to purchase a portion thereof;

WHEREAS, SELLER and MENARD have entered into a Purchase and Sale Agreement, dated July 2, 2014, in which SELLER is selling, and MENARD is purchasing, 9.3± acres as part of Parcel 3503455 (the "Menard's Parcel") as described in Exhibit A attached hereto;

WHEREAS, MENARD desires to open a retail facility on the portion of the Menard's Parcel and expects to create new jobs;

WHEREAS, CITY is willing to enter into an agreement with MENARD for economic development purposes to assist MENARD with the purchase of the Menard's Parcel; and

WHEREAS, CITY is entering into this Agreement to purchase a portion of SELLER's property for open space, recreational and storm water management purposes, which portion is located in the City of Cuyahoga Falls, County of Summit and State of Ohio and consists of 24+ acres, as part of Parcel 3503455 adjacent to the Menard's Parcel and as described in Exhibit B attached hereto (the "City Parcel").

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the covenants, agreements, representations and warranties set forth in this Agreement, SELLER, CITY and MENARD agrees as follows:

1. **RECITALS.** The Recitals set forth above are hereby incorporated in and made a part of this Agreement by this reference.
2. **DEFINITIONS:** Words shall have the meanings assigned to them in this Agreement.
3. **INTERPRETATIONS:** Any reference herein to CITY, or to its members or officers, or to other public officers, boards, commissions, departments, institutions, agencies, bodies or entities, shall include those which succeed to their functions, duties or responsibilities by operation of law and also those who at the time may legally act in their place.

Any reference to a section or provision of the Ohio Constitution or the Ohio Revised Code or other laws of the State of Ohio (the "State") shall include such section, provision and laws as from time to time amended, modified, revised or superseded.

Unless the context otherwise indicates, words importing the singular number shall include the plural number, and vice versa. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms refer to this Agreement.

4. **SALE:** CITY offers to buy, and SELLER agrees to sell, the City Parcel. The City Parcel, which CITY accepts in its "AS-IS, WHERE-IS" PRESENT PHYSICAL CONDITION, shall include the land together with all of SELLER'S right, title and interest in and to all minerals, oil, gas and other hydrocarbon substances, as well as all development rights, air rights, water and water rights, all easements, rights, privileges and appurtenances thereunto belonging, including, if applicable, all right, title and interest of SELLER in and to any land lying in the right-of-way of any street or road in front of or adjoining said property to the centerline thereof, and all improvements, buildings and fixtures located thereon.

5. **PURCHASE PRICE:** CITY shall pay the sum of \$600,000 (the "Purchase Price") for the purchase of the City Parcel. The purchase price shall be payable as follows:

- (a) Earnest money paid to American Certified Title, 1900 W. Market Street, Akron, Ohio 44313 (the "Title Company"): \$1.00 (to be deposited in a non-interest bearing trust account and credited against purchase price); and
- (b) Balance of \$599,999.00 due to SELLER in immediately available funds at Closing (as hereinafter defined).

6. **NOTE:** In event of a dispute between SELLER and CITY over the return or forfeiture of earnest money held in escrow, the Title Company will retain said funds in a trust or escrow account until a written release from the parties consenting to its disposition has been obtained or until disbursement is ordered by a court of competent jurisdiction.

7. **PRE-CLOSING DELIVERIES:** SELLER agrees to prepare, at its cost, the limited warranty deed conveying the City Parcel to CITY, and SELLER agrees to provide the forms of those deeds to CITY for comment and approval within ten (10) days after the execution of this Agreement.

8. **CLOSING:**

- (a) Closing Date. The closing date shall be **no earlier than January 2, 2015 and later than January 31, 2015** (the "Closing") but shall be contingent upon the events set forth herein under the section entitled "**CONTINGENCIES**".
- (b) Closing Deliveries. Closing shall take place through the Title Company. SELLER shall deliver at Closing (i) a fully executed limited warranty deed, which shall convey good and marketable fee simple title to the City Parcel, subject only to the

Permitted Exceptions (as hereinafter defined) (the “Deed”), (ii) a settlement statement, and such affidavits and documents reasonably required by the Title Company in order to issue the Title Policy; and (iii) possession of the City Parcel. CITY shall deliver the Purchase Price, less applicable prorations and credit for the earnest money, in immediately available funds at Closing. Each party agrees to deliver such additional documents as are customary in such transactions or as may be reasonably requested by the other party or Title Company.

- (c) City Parcel Use. CITY acknowledges and agrees that, as a material inducement to SELLER in agreeing to enter into this Agreement to sell the City Parcel to CITY, CITY will cause the City Parcel to be used only in a manner not inconsistent with (1) the preservation of the natural creek environment, (2) the protection of the Mud Brook Creek channel, flood plain, and adjacent steep slopes, (3) the maintenance of minimum stream flow to assure the sustenance of fish, animal, and plant life along the creek, (4) passive recreation activities, including trails and observations areas open and accessible to the public, but specifically excluding the operation thereon of any motorized vehicles, (5) the buffer for different land uses and intensities of development, (6) the preservation and protection of Mud Brook Lake for future flood hazard considerations, (7) construction, repair and maintenance of underground utilities, (8) non-consequential grants of real property interests in the City Parcel only to adjacent neighboring properties, and (9) other land uses customary and compatible with a park dedicated to passive recreational uses (the “Permitted Uses”). A plat will be completed designating the City Parcel as an open space parcel and identifying the Permitted Uses. The restrictions contained herein limiting use of the City Parcel to the Permitted Uses shall be incorporated into the instrument of conveyance utilized herein for the conveyance of the City Parcel to CITY, shall run with the land, and shall endure in perpetuity. Notwithstanding the foregoing, said restrictions herein recited may be specifically supplanted by the adoption on or before February 1, 2016 by City Council of Cuyahoga Falls, Ohio, or some other governmental body with jurisdiction over the City Parcel, of a Mud Brook Corridor Plan, as the same is amended from time to time, which Plan contains its own comprehensive listing of permitted uses of and on the City Parcel.
- (d) Taxes. Taxes and assessments for tax year 2015 (collection year 2016) shall be prorated based upon the latest available tax duplicate. SELLER shall pay all taxes and assessments for tax year 2014 (collection year 2015), even if not yet due and payable, and any other such taxes and assessments that are due and payable, and such taxes and assessments shall be delivered to Title Company. CITY acknowledges that the latest available tax duplicate may not reflect the accurate amount of taxes and assessments that will be owed. The parties are advised to consult with the Office of the Fiscal Officer of Summit County regarding the status of the City Parcel taxes as the latest available tax duplicate may not reflect the accurate amount of taxes that will be owed.

9. **CONTINGENCIES:**

- (a) Provisions to the contrary notwithstanding, performance by CITY is contingent upon satisfaction of the following: (i) on or before Closing, SELLER'S closing of the real estate transaction contemplated by the purchase agreement with MENARD for the Menard's Parcel; (ii) by September 24, 2014, CITY inspecting, at CITY'S sole cost and expense, the environmental condition of the City Parcel, which includes the right to conduct environmental, habitat, wetlands and other studies on the City Parcel, and finding the results of those studies acceptable in CITY'S reasonable discretion; and (iii) on or before December 24, 2014, CITY shall have entered into an agreement with MENARD mutually satisfactory to each party documenting certain job creation related to the intended development of a retail facility on the Menard's Parcel. CITY shall be obligated to provide SELLER with written notice of any objections it may have regarding satisfaction of the contingencies set forth in Sections 9(a)(ii) and 9(a)(iii) above prior to September 24, 2014 and December 24, 2014, respectively. In the event that CITY does not provide SELLER with written notice by such deadlines, SELLER shall provide CITY with a reminder notice, and CITY shall be permitted a five (5)-business day grace period in which to respond with its objections, if any. In the event CITY does not provide SELLER with notice of its objections by the expiration of the respective grace periods, such contingencies shall be deemed removed and CITY agrees to accept the City Parcel in its present, AS-IS condition except for the warranties and representations made in this Agreement.
- (b) Provisions to the contrary notwithstanding, performance by SELLER is contingent upon satisfaction of the following: (i) on or before Closing, SELLER'S closing of the real estate transaction contemplated by the purchase agreement with MENARD for the Menard's Parcel.

10. **MENARD:** MENARD agrees to: (a) attempt to satisfy the contingencies necessary to close the real estate transaction for the purchase of the Menard's Parcel, satisfaction to be at the sole discretion of MENARD; and (b) attempt to reach an agreement with CITY that is mutually agreeable to each party with respect to certain job creation at its contemplated retail facility on the Menard's Parcel.

11. **POSSESSION:** SELLER shall deliver possession of the City Parcel to CITY upon Closing provided the title has transferred.

12. **TITLE:**

(a) Within ten (10) days after the date of execution of this Agreement by CITY (the "Effective Date"), SELLER shall deliver to CITY a commitment for a standard owner's policy of title insurance to be issued on an ALTA form acceptable to CITY in its reasonable discretion (the "Commitment"), issued through the Title Company, committing the Title Company to issue its policy insuring title to the City Parcel in CITY in the amount of the Purchase Price. The Commitment shall bear an effective date subsequent to the date of this Agreement and shall

include legible copies of all documents, maps or plats set forth therein as affecting the City Parcel.

(b) On or before thirty (30) days after receipt of the Commitment, CITY shall deliver to SELLER written notice of CITY'S objections to title, if any. Permissible exceptions to title shall include only: (i) the lien of general taxes and assessments not yet due or payable notwithstanding anything to the contrary set forth herein; (ii) zoning laws and building ordinances; and (iii) title exceptions and printed exceptions shown on the Commitment or on the Survey to which CITY has not objected or is deemed to have accepted pursuant to subparagraph (c) below (collectively, the "Permitted Exceptions").

(c) If SELLER will not cure or remove the objections or otherwise fails to respond to CITY'S notice of title objections within ten (10) days after SELLER receives CITY'S written notice of objections to title, then CITY within thirty (30) days thereafter may elect to either: (i) accept title to the City Parcel as is, or (ii) terminate this Agreement. If CITY does not accept title to the City Parcel as is, CITY shall be deemed to have terminated this Agreement. If CITY does not accept title to the City Parcel as is or if CITY elects to terminate this Agreement, each party shall be released from all duties or obligations contained herein, and the earnest money shall be returned to CITY.

(d) A title insurance policy in accordance with the Commitment shall be issued or committed to be issued by the Title Company as of the Closing Date and shall show no exceptions other than the Permitted Exceptions (the "Title Policy"). Notwithstanding anything to the contrary in this Agreement, SELLER shall pay off or obtain releases of all existing mortgages and other lien indebtedness at Closing, and such matters shall not be deemed Permitted Exceptions.

13. **CHARGES/ESCROW INSTRUCTIONS:** This Agreement shall be used as escrow instructions subject to the Title Company's usual conditions of acceptance. SELLER shall pay the following costs through escrow: (a) one half of the escrow fee; (b) any real estate transfer tax; (c) any taxes and assessments for tax year 2014 (collection year 2015) even if such taxes and assessments are not yet due and payable and any taxes and assessments that are due and payable; (d) prorated taxes and assessments for tax year 2015 (collection year 2016) based upon the latest available tax duplicate; (e) any amount required to discharge any mortgage, lien or encumbrance not assumed by CITY; (f) the fees for the title examination and issuance of the Title Commitment and one half the cost of the insuring premium for the Title Policy; and (g) any proration due CITY.

CITY shall pay the following through escrow: (i) one half of the escrow fee; and (ii) one half the cost of the insuring premiums for the Title Policy.

CITY and SELLER each represents to the other party that it has not dealt with a real estate broker regarding the City Parcel. SELLER will indemnify CITY if any third party claims a commission or fee as the result of having dealt with SELLER.

14. **CITY'S REPRESENTATIONS AND WARRANTIES:** CITY represents, warrants

and agrees that:

(a) It is a municipal corporation duly organized and validly existing under the laws and constitution of the State.

(b) It will have duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Agreement, and this Agreement when executed and delivered will be a valid and binding instrument enforceable in accordance with its terms.

(c) It is not in violation of or in conflict with any provision of the laws of the State which would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement.

(d) It has and will have full power and authority (i) to execute, deliver, observe and perform this Agreement, and (ii) to enter into, observe and perform the transactions contemplated in this Agreement.

15. **SELLER'S REPRESENTATIONS AND WARRANTIES:** To induce CITY to enter into this Agreement, SELLER warrants and represents to CITY that to the best of its knowledge and belief the following statements are now, and will on the Closing Date be, true and accurate:

(a) SELLER is a corporation, duly organized, validly existing under the laws of the State. Prior to the Closing, SELLER intends to complete the conversion process with the Ohio Secretary of State to convert SELLER from an Ohio corporation to an Ohio limited liability company. By executing this Agreement, CITY acknowledges for purposes of deed preparation and other Closing paperwork that such conversion may take place and that SELLER may be a limited liability company with a substantially similar name on the Closing.

(b) SELLER has good, marketable and insurable record title to the City Parcel.

(c) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of SELLER, threatened, against or affecting in any court or before any governmental authority or arbitration board or tribunal which involved the possibility of materially and adversely affecting the transactions contemplated by this Agreement or the ability of to perform its obligations under this Agreement, nor has SELLER agreed or committed to dedicate any part of the City Parcel.

(d) SELLER has the full capacity, right, power and authority to execute, deliver and perform the obligations of SELLER contained in this Agreement and all documents to be executed by SELLER pursuant hereto, and all required actions and approvals therefore have been duly taken and obtained or will be taken and obtained prior to the Closing Date. The individual signing this Agreement on behalf of SELLER is duly authorized to sign the same on SELLER'S behalf and to bind SELLER thereto.

(e) This Agreement is and shall be binding upon and enforceable against SELLER in accordance with its terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration and maturity under, any indenture, mortgage, deed

of trust, loan agreement or other agreement to which SELLER or the City Parcel is subject or by which SELLER or the City Parcel is bound.

(f) No event has occurred and no condition exists with respect to SELLER that would constitute a default under this Agreement or which, with the lapse of time or with the giving of notice or both, would create a default under this Agreement.

(g) SELLER represents that at the time of its execution of this Agreement, SELLER is not charged with any delinquent personal or real property taxes on the tax list and duplicate of CITY.

The representations and warranties made under this Section shall be deemed to have been remade by SELLER as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent to the date of this Agreement, which are set forth in a certificate prepared by SELLER and delivered to CITY on or before the Closing Date, which certificate upon delivery shall be deemed to constitute a part of this Agreement, provided that any such matter shall not affect CITY'S rights under this Agreement.

16. **THIRD-PARTY BENEFICIARY:** CITY, MENARD and SELLER each acknowledge that MENARD is a third-party beneficiary of the agreements set forth herein between CITY and SELLER.

17. **INDEMNIFICATION:** SELLER releases CITY from, and agrees that CITY shall not be liable for and indemnifies CITY against, all liabilities, claims, costs and expenses, including out-of-pocket and incidental expenses and reasonable legal fees, imposed upon, incurred or asserted against CITY on account of: (a) any material breach or default on the part of SELLER in the performance of any covenant, obligation or agreement of SELLER, or arising from any act or failure to act by SELLER, under this Agreement; (b) any representation or warranty made by SELLER to CITY in this Agreement proves to be false or misleading in any material respect when made or given; (c) a material breach of any warranty or covenant made by SELLER; (d) any action taken or omitted to be taken by CITY pursuant to the terms of this Agreement at the written request of SELLER; and (e) any claim, action or proceeding brought with respect to any matter set forth in clause (a), (b), (c) and (d) above; provided, that such losses did not result solely from (i) CITY'S willful misconduct or gross negligence, or (ii) CITY'S breach of any material representation, warranty or covenant made by it in this Agreement.

18. **CONDEMNATION:** If any portion of the City Parcel is condemned or threatened to be condemned or access thereto is taken or threatened to be taken subsequent to the Effective Date and prior to the Closing Date, SELLER must notify CITY of such action. Upon receipt of such notice from SELLER, if CITY reasonably concludes that the taking renders the City Parcel or any portion thereof unsuitable for the economic development or other use contemplated and CITY so notifies SELLER in writing within thirty (30) days after learning of such condemnation action, then this Agreement shall terminate. Upon termination both parties shall be released from all duties and obligations contained herein and the earnest money shall be delivered to CITY. If the Agreement is not terminated pursuant to the preceding sentence, the Purchase Price of the City Parcel shall not be affected, it being agreed that if the award is paid prior to the Closing of

this transaction, such amount shall be held in escrow and delivered to CITY at the Closing, and if the award has not been paid before the Closing, then at the Closing SELLER shall assign to CITY all of its right, title and interest with respect to such award and shall further execute any other instrument requested by CITY to assure that such award is paid to CITY. If CITY does not terminate this Agreement, it shall have the right to contest the condemnation of the City Parcel and/or the award resulting therefrom. SELLER shall not agree to or accept any compromise or condemnation award without obtaining CITY'S prior written approval.

19. **DEFAULT BY CITY:** If any of the representations and warranties of CITY are determined to be knowingly untrue or this transaction fails to close as a result of a default by CITY with respect to any of the terms of this Agreement, and such default continues for a period of five (5) days after SELLER notifies CITY in writing of such event, SELLER shall be entitled to receive the earnest money as liquidated damages as its sole remedy. The parties hereby acknowledge and agree that it is difficult or impossible to estimate accurately the damages that might be suffered by SELLER upon CITY'S default, and that the amount of the earnest money is a reasonable estimate of the amount of such damages. SELLER'S retention of the earnest money is intended not as a penalty, but as full liquidated damages due to the City Parcel being encumbered by this Agreement during the Agreement term and CITY'S failure to close.

20. **DEFAULT BY SELLER:** If any of the representations and warranties of SELLER are determined to be knowingly untrue or this transaction fails to close as a result of a default by SELLER with respect to any of the terms of this Agreement or SELLER refuses to perform any of its obligations as set forth herein, CITY may, as CITY'S sole and exclusive remedies against SELLER (CITY hereby waiving all other legal or equitable claims, including recovery of damages for such default), at its option, elect to:

(a) terminate this Agreement, and shall be entitled to the return of the earnest money;

or

(b) enforce specific performance of SELLER'S obligations hereunder, including specifically the conveyance of the City Parcel in the condition required hereby.

21. **NO MERGER:** Any provision hereof which by its terms would be performed after the Closing Date, including all warranties, representations and/or indemnities expressly made herein, shall survive the Closing and shall not be merged therein.

22. **GOVERNING LAW:** This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed and construed in accordance with the laws of said State.

23. **SEVERABILITY:** If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision will be added as a part of this Agreement that is as similar to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

24. **CONSTRUCTION:** The rule of strict construction shall not apply to this Agreement. This Agreement has been prepared by SELLER and its professional advisors and reviewed and modified by CITY and MENARD and its professional advisors. SELLER, CITY, MENARD and their separate advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement, and that it should not be interpreted in favor of or against SELLER, CITY or MENARD merely because of their efforts in preparing it.

25. **NOTICE:** Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to CITY, MENARD or SELLER, as appropriate, at the appropriate mailing address listed in the first paragraph of this Agreement or to such other address as the recipient shall have previously notified the sender of in writing as provided in this Section. CITY, MENARD or SELLER, by notice given hereunder, may designate any further addressee or a different notice address to which subsequent notices, certificates, requests or other communications shall be sent.

26. **TIME:** Time is of the essence of this Agreement and each and every provision hereof.

27. **EXTENT OF PROVISIONS; NO PERSONAL LIABILITY.** All representations, warranties, covenants, agreements and obligations of CITY under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future member, officer, agent or employee of CITY in other than his or her official capacity.

No representation, warranty, covenant, agreement, obligation or stipulation contained in this Agreement shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future member, officer, agent or employee of CITY or SELLER in an individual capacity. No official executing or approving CITY'S or SELLER'S participation in this Agreement shall be liable personally under this Agreement.

28. **ENTIRE AGREEMENT:** All previous negotiations and understandings between SELLER, CITY and MENARD or their respective agents and employees with respect to the transaction set forth herein are merged in this Agreement which alone fully and completely expresses the parties' rights, duties and obligations with respect to its subject matter and which may be amended only by subsequent written agreement between SELLER, CITY and MENARD.

29. **ASSIGNMENT:** This Agreement may not be assigned by CITY, and this Agreement may only be assigned by SELLER or MENARD with the prior written consent of CITY, which consent shall not be unreasonably withheld if the assignee in a written form acceptable to CITY assumes all of the obligations of SELLER or MENARD pursuant to this Agreement and provides evidence satisfactory to CITY of its financial ability to perform those obligations.

30. **CONDITION OF PROPERTY:** CITY has examined the property and agrees that the property is being purchased "AS-IS, WHERE-IS" condition as of the Closing, and CITY expressly acknowledges that, in consideration of the agreements of SELLER herein, and except as otherwise expressly specified herein, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO TITLE, CONDITION, ZONING, AVAILABILITY OF ACCESS, INGRESS OR EGRESS, AVAILABILITY OF UTILITIES AND GOVERNMENTAL APPROVALS, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY.

31. **BINDING AGREEMENT:** Upon written acceptance and then either written or verbal notice of such acceptance to the last-offering party, this offer and any addenda listed below shall become a LEGALLY BINDING AGREEMENT UPON CITY, SELLER and MENARD and their heirs, executors, administrators and assigns and shall represent the entire understanding of the parties regarding this transaction. All counteroffers, amendments, changes or deletions to this Agreement shall be in writing and be signed by each of CITY, SELLER and MENARD. Facsimile signatures shall be deemed binding and valid. This Agreement shall be used as escrow instructions subject to the Title Company's usual conditions of acceptance. For purposes of this Agreement, "days" shall be defined as calendar days.

32. **SURVIVAL OF REPRESENTATIONS AND WARRANTIES:** All representations and warranties of SELLER and CITY contained in this Agreement shall survive the execution and delivery of this Agreement and the recording of any deeds contemplated hereby.

[signature page follows]

This AGREEMENT is a legally binding contract. Each party has consulted with its counsel with respect to the provisions contained herein.

“CITY”:

THE CITY OF CUYAHOGA FALLS

By: _____

Its: _____

Date: _____

Approved as to form and correctness:

Russell Balthis
Director of Law
City of Cuyahoga Falls, Ohio

“SELLER”:

FIRST AKRON DEVELOPMENT
CORPORATION

By: _____

Name: David M. Hunter

Title: Vice President

“MENARD”:

MENARD, INC.

By: _____

Name: _____

Title: _____

882149v9

FISCAL OFFICER'S CERTIFICATE

The undersigned, Director of Finance of the City of Cuyahoga Falls, Ohio under the foregoing Agreement, certifies hereby that the monies required to meet the obligations of the City during the year 2014 under the foregoing Agreement have been lawfully appropriated for that purpose, and will be in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2014

Director of Finance
City of Cuyahoga Falls, Ohio

Exhibit A
Menard's Parcel Legal Description

GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782 • www.GBCdesign.com

June 26, 2014

LEGAL DESCRIPTION
First Akron Development Corporation
Cuyahoga Falls, Ohio
Lot Split Parcel – 9.2986 Acres

Situated in the City of Cuyahoga Falls, County of Summit, State of Ohio and known as being part of Original Lot 17 of former Northampton Township, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Deed Volume 4006, Page 181 of the Summit County records and more fully described as follows:

Beginning at a 5/8" capped rebar (GBC Design, Inc.) found at the northeasterly corner of Lot 3 of Kaye Subdivision as recorded in Reception #55056619 of the Summit County records;

Thence S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 186.68 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 22° 52' 38" E, along the westerly line of lands now or formerly owned by 101 Kappa Drive Association as recorded in Deed Volume 7180, Page 86 of the Summit County records, a distance of 116.73 feet to a 5/8" capped rebar (GBC Design, Inc.) found, which is the True Place of Beginning for the parcel of land herein described;

Thence N 03° 30' 50" E, along a line of new division, a distance of 192.05 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 37° 11' 29" W, along a line of new division, a distance of 193.83 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 63° 12' 48" E, along a line of new division, a distance of 257.29 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 67° 21' 35" E, along a line of new division, a distance of 136.34 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 76° 39' 07" E, along a line of new division, a distance of 100.45 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 32° 29' 44" E, along a line of new division, a distance of 143.26 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 88° 51' 55" E, along a line of new division, a distance of 108.06 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 41° 41' 34" E, along a line of new division, a distance of 179.23 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 73° 46' 38" E, along a line of new division, a distance of 184.72 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 00° 31' 54" W, along the westerly line of Meadowood Apartments Subdivision as recorded in Plat Cabinet "A", Slides 346-348 of the Summit County records, passing over a capped rebar (Patrick P.S. 6541) found at 359.47 feet, also passing over a 5/8" rebar found at 971.55 feet, a distance of 1002.66 feet to a point;

Lot Split Parcel
9.2986 Acres
Page 2 of 2
June 26, 2014

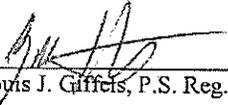
Thence S 75° 12' 00" W, along the centerline of Graham Road (C.H. 29) 60 feet wide, a distance of 13.57 feet to a point;

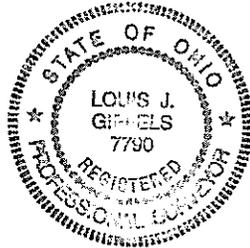
Thence continuing along the centerline of said Graham road, along the arc of a circle curving to the right having a central angle of 01° 00' 59", a radius of 1432.39 feet, a tangent of 12.70 feet, a chord of 25.41 feet, a chord bearing of S 75° 42' 29" W, and an arc length of 25.41 feet to point;

Thence N 00° 37' 29" E, along the easterly line of said 101 Kappa Drive Association lands, passing over a 5/8" capped rebar (GBC Design, Inc.) found at 31.00 feet, a distance of 650.15 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 89° 43' 38" W, along the northerly line of said 101 Kappa Drive Association lands, a distance of 789.50 feet to the True Place of Beginning and containing 9.2986 Acres of land, more or less, as surveyed in June, 2014 by Louis J. Giffels, Registered Surveyor No. 7790, with GBC Design, Inc., but subject to all legal highways and any restrictions, reservations or easements of record.

**Basis of bearing for this survey is the Ohio State Plane Coordinate System NAD83, Grid North.


Louis J. Giffels, P.S. Reg. No. 7790



GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782

Exhibit B
City Parcel Legal Description

GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782 • www.GBCdesign.com

June 26, 2014

LEGAL DESCRIPTION
First Akron Development Corporation
Cuyahoga Falls, Ohio
Lot Split Parcel – 24.0082 Acres

Situated in the City of Cuyahoga Falls, County of Summit, State of Ohio and known as being part of Original Lot 17 and part of Original Lot 27 of former Northampton Township, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Deed Volume 4006, Page 181 of the Summit County records, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Reception No. 55453810 of the Summit County records and more fully described as follows:

Beginning at a 5/8" capped rebar (GBC Design, Inc.) found at the northeasterly corner of Lot 3 of Kaye Subdivision as recorded in Reception #55056619 of the Summit County records;

Thence S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 186.68 feet to a 5/8" capped rebar (GBC Design, Inc.) found, which is the True Place of Beginning for the parcel of land herein described;

Thence continuing S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 49.74 feet to a point in Mud Run;

Thence S 27° 24' 38" W, along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 75.00 feet to a point in Mud Run;

Thence S 51° 15' 38" W, continuing along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 62.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 26° 23' 38" W, continuing along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 107.15 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 50° 12' 12" W, along the northerly line of Falls Catholic Credit Union Inc. as recorded in Reception #54735364 of the Summit County records, also along the northerly line of lands now or formerly owned by Family Video Movie Club, Inc. as recorded in Reception #54762522 of the Summit county records, a distance of 276.83 feet to a point in Mud Run;

Thence S 63° 15' 22" W, continuing along the northerly line of said Family Video Movie Club, Inc. lands, a distance of 99.00 feet to a point in Mud Run on the westerly line of said Original Lot 17;

Thence N 01° 05' 05" W, along the westerly line of said Original Lot 17, also being the easterly line of lands now or formerly owned by Family Video Movie Club, Inc. as recorded in Reception #54762520 of the Summit county records, a distance of 71.61 feet to a point (witnessed by a capped rebar (L. Butterworth RLS5196) found S 60° 43' 28" W, 1.47');

Thence N 60° 43' 28" E, along a southerly line of People Care Park as recorded in Plat Cabinet "C", Slides 376-377 of the Summit County records, a distance of 130.49 feet to a capped rebar (Bock & Clark) found;

Lot Split Parcel
24.0082 Acres
Page 2 of 4
June 26, 2014

Thence N 33° 05' 48" E, continuing along a southerly line of said People Care Park, a distance of 493.17 feet to a point in Mud Run;

Thence N 47° 13' 48" W, along a northerly line of said People Care Park, a distance of 108.68 feet to a capped rebar (Campbell & Assoc., Inc.) found;

Thence S 86° 25' 08" W, continuing along a northerly line of said People Care Park, a distance of 220.65 feet to a point (witnessed by a capped rebar (Bock & Clark) found S 09° 23' 31" E, 0.19');

Thence N 51° 33' 10" W, continuing along a northerly line of said People Care Park, a distance of 210.11 feet to a capped rebar (Bock & Clark) found;

Thence S 79° 22' 59" W, continuing along a northerly line of said People Care Park, a distance of 175.75 feet to a bent capped rebar (Bock & Clark) found;

Thence N 69° 58' 57" W, continuing along a northerly line of said People Care Park, a distance of 134.80 feet to a capped rebar (Bock & Clark) found;

Thence S 49° 38' 47" W, continuing along a northerly line of said People Care Park, passing over a capped rebar (Bock & Clark) found at 75.48 feet, a distance of 117.29 feet to a point;

Thence along the centerline of Cleveland-Akron Road (A.K.A. State Road, S.R. 8, C.H. 16) width varies, along the arc of a circle curving to the right having a central angle of 26° 43' 55", a radius of 1909.86 feet, a tangent of 453.79 feet, a chord of 883.00 feet, a chord bearing of N 10° 15' 19" W, and an arc length of 891.06 feet to point;

Thence N 89° 23' 35" E, along the southerly line of lands now or formerly owned by Emidio & Sons as recorded in Reception #55940312 of the Summit County records, passing over a 1" bent iron pipe found at 40.09 feet, a distance of 831.12 feet to a point (witnessed by a 1" bent rebar found N 89° 23' 35" E, 0.22');

Thence S 00° 39' 45" E, along the westerly line of lands now or formerly owned by Emidio & Sons as recorded in Reception #55940328 of the Summit County records, a distance of 151.86 feet to a 1" bar w/dimple found;;

Thence N 57° 10' 12" E, along a southerly line of said Emidio & Sons lands, a distance of 275.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 67° 19' 13" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 110.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 86° 49' 48" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 100.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 82° 07' 18" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 113.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 60° 46' 18" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 211.06 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 00° 59' 40" W, along the easterly line of said Emidio & Sons lands, a distance of 356.34 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 89° 03' 05" E, along the southerly line of East Bath Road (C.H. 48) width varies, a distance of 50.00 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782

Lot Split Parcel
24.0082 Acres
Page 3 of 4
June 26, 2014

Thence S 00° 59' 40" E, along a new line of division, a distance of 386.21 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 60° 46' 18" W, along a new line of division, a distance of 250.39 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 82° 07' 18" W, along a new line of division, a distance of 124.48 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 86° 49' 48" W, along a new line of division, a distance of 93.46 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 67° 19' 13" W, along a new line of division, a distance of 96.96 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 57° 10' 12" W, along a new line of division, a distance of 381.12 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 26° 17' 41" E, along a new line of division, a distance of 397.53 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 69° 23' 58" E, along a new line of division, a distance of 253.47 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 41° 26' 08" E, along a new line of division, a distance of 115.12 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 69° 32' 43" E, along a new line of division, a distance of 97.79 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 74° 27' 33" E, along a new line of division, a distance of 123.00 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 56° 20' 05" E, along a new line of division, a distance of 118.90 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 87° 02' 04" E, along a new line of division, a distance of 165.15 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 52° 52' 38" E, along a new line of division, a distance of 320.21 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 00° 31' 54" W, along the westerly line of Meadowood Apartments Subdivision as recorded in Plat Cabinet "A", Slides 346-348 of the Summit County records, a distance of 103.13 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 73° 46' 38" W, along a new line of division, a distance of 184.72 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 41° 41' 34" W, along a new line of division, a distance of 179.23 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence N 88° 51' 55" W, along a new line of division, a distance of 108.06 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 32° 29' 44" W, along a new line of division, a distance of 143.26 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;
Thence S 76° 39' 07" W, along a new line of division, a distance of 100.45 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782

Lot Split Parcel
24.0082 Acres
Page 4 of 4
June 26, 2014

Thence N 67° 21' 35" W, along a new line of division, a distance of 136.34 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 63° 12' 48" W, along a new line of division, a distance of 257.29 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 37° 11' 29" E, along a new line of division, a distance of 193.83 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

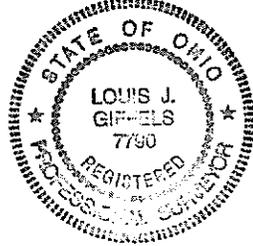
Thence S 03° 30' 50" W, along a new line of division, a distance of 192.05 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 22° 52' 38" W, along a westerly line of lands now or formerly owned by 101 Kappa Drive Association as recorded in Deed Volume 7180, Page 86 of the Summit County records, a distance of 116.73 feet to the True Place of Beginning and containing 24.0082 Acres of land (13.1782 Acres in Original Lot 17 & 10.8300 Acres in Original Lot 27), more or less, as surveyed in June, 2014 by Louis J. Giffels, Registered Surveyor No. 7790 with GBC Design, Inc., but subject to all legal highways and any restrictions, reservations or easements of record.

**Basis of bearing for this survey is the Ohio State Plane Coordinate System NAD83, Grid North.



Louis J. Giffels, P.S. Reg. No. 7790



GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

OFFER, RECEIPT AND ACCEPTANCE

This Purchase, Sale and Development Agreement (the "Agreement") dated as of August __, 2014 is between the City of Cuyahoga Falls, Ohio, a municipal corporation, whose mailing address is Cuyahoga Falls Municipal Building, 2310 Second Street, Cuyahoga Falls, Ohio 44221 ("CITY"), Menard, Inc., a Wisconsin corporation, whose mailing address is 5101 Menard Drive, Eau Claire, WI 54703 ("MENARD"), and First Akron Development Corporation, an Ohio corporation, whose mailing address is 388 S. Main Street, Suite 500, Akron, Ohio 44311 ("SELLER").

RECITALS

WHEREAS, SELLER owns certain property which CITY and MENARD each desire to purchase a portion thereof;

WHEREAS, SELLER and MENARD have entered into a Purchase and Sale Agreement, dated July 2, 2014, in which SELLER is selling, and MENARD is purchasing, 9.3± acres as part of Parcel 3503455 (the "Menard's Parcel") as described in Exhibit A attached hereto;

WHEREAS, MENARD desires to open a retail facility on the portion of the Menard's Parcel and expects to create new jobs;

WHEREAS, CITY is willing to enter into an agreement with MENARD for economic development purposes to assist MENARD with the purchase of the Menard's Parcel; and

WHEREAS, CITY is entering into this Agreement to purchase a portion of SELLER's property for open space, recreational and storm water management purposes, which portion is located in the City of Cuyahoga Falls, County of Summit and State of Ohio and consists of 24+ acres, as part of Parcel 3503455 adjacent to the Menard's Parcel and as described in Exhibit B attached hereto (the "City Parcel").

NOW, THEREFORE, in consideration of the foregoing, and in consideration of the covenants, agreements, representations and warranties set forth in this Agreement, SELLER, CITY and MENARD agrees as follows:

1. **RECITALS.** The Recitals set forth above are hereby incorporated in and made a part of this Agreement by this reference.
2. **DEFINITIONS:** Words shall have the meanings assigned to them in this Agreement.
3. **INTERPRETATIONS:** Any reference herein to CITY, or to its members or officers, or to other public officers, boards, commissions, departments, institutions, agencies, bodies or entities, shall include those which succeed to their functions, duties or responsibilities by operation of law and also those who at the time may legally act in their place.

Any reference to a section or provision of the Ohio Constitution or the Ohio Revised Code or other laws of the State of Ohio (the "State") shall include such section, provision and laws as from time to time amended, modified, revised or superseded.

Unless the context otherwise indicates, words importing the singular number shall include the plural number, and vice versa. The terms "hereof," "herein," "hereby," "hereto," "hereunder" and similar terms refer to this Agreement.

4. **SALE:** CITY offers to buy, and SELLER agrees to sell, the City Parcel. The City Parcel, which CITY accepts in its "AS-IS, WHERE-IS" PRESENT PHYSICAL CONDITION, shall include the land together with all of SELLER'S right, title and interest in and to all minerals, oil, gas and other hydrocarbon substances, as well as all development rights, air rights, water and water rights, all easements, rights, privileges and appurtenances thereunto belonging, including, if applicable, all right, title and interest of SELLER in and to any land lying in the right-of-way of any street or road in front of or adjoining said property to the centerline thereof, and all improvements, buildings and fixtures located thereon.

5. **PURCHASE PRICE:** CITY shall pay the sum of \$600,000 (the "Purchase Price") for the purchase of the City Parcel. The purchase price shall be payable as follows:

- (a) Earnest money paid to American Certified Title, 1900 W. Market Street, Akron, Ohio 44313 (the "Title Company"): \$1.00 (to be deposited in a non-interest bearing trust account and credited against purchase price); and
- (b) Balance of \$599,999.00 due to SELLER in immediately available funds at Closing (as hereinafter defined).

6. **NOTE:** In event of a dispute between SELLER and CITY over the return or forfeiture of earnest money held in escrow, the Title Company will retain said funds in a trust or escrow account until a written release from the parties consenting to its disposition has been obtained or until disbursement is ordered by a court of competent jurisdiction.

7. **PRE-CLOSING DELIVERIES:** SELLER agrees to prepare, at its cost, the limited warranty deed conveying the City Parcel to CITY, and SELLER agrees to provide the forms of those deeds to CITY for comment and approval within ten (10) days after the execution of this Agreement.

8. **CLOSING:**

- (a) Closing Date. The closing date shall be **no earlier than January 2, 2015 and later than January 31, 2015** (the "Closing") but shall be contingent upon the events set forth herein under the section entitled "**CONTINGENCIES**".
- (b) Closing Deliveries. Closing shall take place through the Title Company. SELLER shall deliver at Closing (i) a fully executed limited warranty deed, which shall convey good and marketable fee simple title to the City Parcel, subject only to the

Permitted Exceptions (as hereinafter defined) (the "Deed"), (ii) a settlement statement, and such affidavits and documents reasonably required by the Title Company in order to issue the Title Policy; and (iii) possession of the City Parcel. CITY shall deliver the Purchase Price, less applicable prorations and credit for the earnest money, in immediately available funds at Closing. Each party agrees to deliver such additional documents as are customary in such transactions or as may be reasonably requested by the other party or Title Company.

- (c) City Parcel Use. CITY acknowledges and agrees that, as a material inducement to SELLER in agreeing to enter into this Agreement to sell the City Parcel to CITY, CITY will cause the City Parcel to be used only in a manner not inconsistent with (1) the preservation of the natural creek environment, (2) the protection of the Mud Brook Creek channel, flood plain, and adjacent steep slopes, (3) the maintenance of minimum stream flow to assure the sustenance of fish, animal, and plant life along the creek, (4) passive recreation activities, including trails and observations areas open and accessible to the public, but specifically excluding the operation thereon of any motorized vehicles, (5) the buffer for different land uses and intensities of development, (6) the preservation and protection of Mud Brook Lake for future flood hazard considerations, (7) construction, repair and maintenance of underground utilities, (8) non-consequential grants of real property interests in the City Parcel only to adjacent neighboring properties, and (9) other land uses customary and compatible with a park dedicated to passive recreational uses (the "Permitted Uses"). A plat will be completed designating the City Parcel as an open space parcel and identifying the Permitted Uses. The restrictions contained herein limiting use of the City Parcel to the Permitted Uses shall be incorporated into the instrument of conveyance utilized herein for the conveyance of the City Parcel to CITY, shall run with the land, and shall endure in perpetuity. Notwithstanding the foregoing, said restrictions herein recited may be specifically supplanted by the adoption on or before February 1, 2016 by City Council of Cuyahoga Falls, Ohio, or some other governmental body with jurisdiction over the City Parcel, of a Mud Brook Corridor Plan, as the same is amended from time to time, which Plan contains its own comprehensive listing of permitted uses of and on the City Parcel.
- (d) Taxes. Taxes and assessments for tax year 2015 (collection year 2016) shall be prorated based upon the latest available tax duplicate. SELLER shall pay all taxes and assessments for tax year 2014 (collection year 2015), even if not yet due and payable, and any other such taxes and assessments that are due and payable, and such taxes and assessments shall be delivered to Title Company. CITY acknowledges that the latest available tax duplicate may not reflect the accurate amount of taxes and assessments that will be owed. The parties are advised to consult with the Office of the Fiscal Officer of Summit County regarding the status of the City Parcel taxes as the latest available tax duplicate may not reflect the accurate amount of taxes that will be owed.

9. **CONTINGENCIES:**

- (a) Provisions to the contrary notwithstanding, performance by CITY is contingent upon satisfaction of the following: (i) on or before Closing, SELLER'S closing of the real estate transaction contemplated by the purchase agreement with MENARD for the Menard's Parcel; (ii) by September 24, 2014, CITY inspecting, at CITY'S sole cost and expense, the environmental condition of the City Parcel, which includes the right to conduct environmental, habitat, wetlands and other studies on the City Parcel, and finding the results of those studies acceptable in CITY'S reasonable discretion; and (iii) on or before December 24, 2014, CITY shall have entered into an agreement with MENARD mutually satisfactory to each party documenting certain job creation related to the intended development of a retail facility on the Menard's Parcel. CITY shall be obligated to provide SELLER with written notice of any objections it may have regarding satisfaction of the contingencies set forth in Sections 9(a)(ii) and 9(a)(iii) above prior to September 24, 2014 and December 24, 2014, respectively. In the event that CITY does not provide SELLER with written by such deadlines, SELLER shall provide CITY with a reminder notice, and CITY shall be permitted a five (5)-business day grace period in which to respond with its objections, if any. In the event CITY does not provide SELLER with notice of its objections by the expiration of the respective grace periods, such contingencies shall be deemed removed and CITY agrees to accept the City Parcel in its present, AS-IS condition except for the warranties and representations made in this Agreement.
- (b) Provisions to the contrary notwithstanding, performance by SELLER is contingent upon satisfaction of the following: (i) on or before Closing, SELLER'S closing of the real estate transaction contemplated by the purchase agreement with MENARD for the Menard's Parcel.

10. **MENARD:** MENARD agrees to ~~use its best efforts to~~: (a) attempt to satisfy the contingencies necessary to close the real estate transaction for the purchase of the Menard's Parcel, satisfaction to be at the sole discretion of MENARD; and (b) attempt to reach an agreement with CITY that is mutually agreeable to each party with respect to certain job creation at its contemplated retail facility on the Menard's Parcel.

11. **POSSESSION:** SELLER shall deliver possession of the City Parcel to CITY upon Closing provided the title has transferred.

12. **TITLE:**

(a) Within ten (10) days after the date of execution of this Agreement by CITY (the "Effective Date"), SELLER shall deliver to CITY a commitment for a standard owner's policy of title insurance to be issued on a ALTA form acceptable to CITY in its reasonable discretion (the "Commitment"), issued through the Title Company, committing the Title Company to issue its policy insuring title to the City Parcel in CITY in the amount of the Purchase Price. The Commitment shall bear an effective date subsequent to the date of this Agreement and shall

include legible copies of all documents, maps or plats set forth therein as affecting the City Parcel.

(b) On or before thirty (30) days after receipt of the Commitment, CITY shall deliver to SELLER written notice of CITY'S objections to title, if any. Permissible exceptions to title shall include only: (i) the lien of general taxes and assessments not yet due or payable notwithstanding anything to the contrary set forth herein; (ii) zoning laws and building ordinances; and (iii) title exceptions and printed exceptions shown on the Commitment or on the Survey to which CITY has not objected or is deemed to have accepted pursuant to subparagraph (c) below (collectively, the "Permitted Exceptions").

(c) If SELLER will not cure or remove the objections or otherwise fails to respond to CITY'S notice of title objections within ten (10) days after SELLER receives CITY'S written notice of objections to title, then CITY within thirty (30) days thereafter may elect to either: (i) accept title to the City Parcel as is, or (ii) terminate this Agreement. If CITY does not accept title to the City Parcel as is, CITY shall be deemed to have terminated this Agreement. If CITY does not accept title to the City Parcel as is or if CITY elects to terminate this Agreement, each party shall be released from all duties or obligations contained herein, and the earnest money shall be returned to CITY.

(d) A title insurance policy in accordance with the Commitment shall be issued or committed to be issued by the Title Company as of the Closing Date and shall show no exceptions other than the Permitted Exceptions (the "Title Policy"). Notwithstanding anything to the contrary in this Agreement, SELLER shall pay off or obtain releases of all existing mortgages and other lien indebtedness at Closing, and such matters shall not be deemed Permitted Exceptions.

13. **CHARGES/ESCROW INSTRUCTIONS:** This Agreement shall be used as escrow instructions subject to the Title Company's usual conditions of acceptance. SELLER shall pay the following costs through escrow: (a) one half of the escrow fee; (b) any real estate transfer tax; (c) any taxes and assessments for tax year 2014 (collection year 2015) even if such taxes and assessments are not yet due and payable and any taxes and assessments that are due and payable; (d) prorated taxes and assessments for tax year 2015 (collection year 2016) based upon the latest available tax duplicate; (e) any amount required to discharge any mortgage, lien or encumbrance not assumed by CITY; (f) the fees for the title examination and issuance of the Title Commitment and one half the cost of the insuring premium for the Title Policy; and (g) any proration due CITY.

CITY shall pay the following through escrow: (i) one half of the escrow fee; and (ii) one half the cost of the insuring premiums for the Title Policy.

CITY and SELLER each represents to the other party that it has not dealt with a real estate broker regarding the City Parcel. SELLER will indemnify CITY if any third party claims a commission or fee as the result of having dealt with SELLER.

14. **CITY'S REPRESENTATIONS AND WARRANTIES:** CITY represents, warrants

and agrees that:

(a) It is a municipal corporation duly organized and validly existing under the laws and constitution of the State.

(b) It will have duly accomplished all conditions necessary to be accomplished by it prior to the execution and delivery of this Agreement, and this Agreement when executed and delivered will be a valid and binding instrument enforceable in accordance with its terms.

(c) It is not in violation of or in conflict with any provision of the laws of the State which would impair its ability to observe and perform its covenants, agreements and obligations under this Agreement.

(d) It has and will have full power and authority (i) to execute, deliver, observe and perform this Agreement, and (ii) to enter into, observe and perform the transactions contemplated in this Agreement.

15. **SELLER'S REPRESENTATIONS AND WARRANTIES:** To induce CITY to enter into this Agreement, SELLER warrants and represents to CITY that to the best of its knowledge and belief the following statements are now, and will on the Closing Date be, true and accurate:

(a) SELLER is a corporation, duly organized, validly existing under the laws of the State. Prior to the Closing, SELLER intends to complete the conversion process with the Ohio Secretary of State to convert SELLER from an Ohio corporation to an Ohio limited liability company. By executing this Agreement, CITY acknowledges for purposes of deed preparation and other Closing paperwork that such conversion may take place and that SELLER may be a limited liability company with a substantially similar name on the Closing.

(b) SELLER has good, marketable and insurable record title to the City Parcel.

(c) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of SELLER, threatened, against or affecting in any court or before any governmental authority or arbitration board or tribunal which involved the possibility of materially and adversely affecting the transactions contemplated by this Agreement or the ability of to perform its obligations under this Agreement, nor has SELLER agreed or committed to dedicate any part of the City Parcel.

(d) SELLER has the full capacity, right, power and authority to execute, deliver and perform the obligations of SELLER contained in this Agreement and all documents to be executed by SELLER pursuant hereto, and all required actions and approvals therefore have been duly taken and obtained or will be taken and obtained prior to the Closing Date. The individual signing this Agreement on behalf of SELLER is duly authorized to sign the same on SELLER'S behalf and to bind SELLER thereto.

(e) This Agreement is and shall be binding upon and enforceable against SELLER in accordance with its terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration and maturity under, any indenture, mortgage, deed

of trust, loan agreement or other agreement to which SELLER or the City Parcel is subject or by which SELLER or the City Parcel is bound.

(f) No event has occurred and no condition exists with respect to SELLER that would constitute a default under this Agreement or which, with the lapse of time or with the giving of notice or both, would create a default under this Agreement.

(g) SELLER represents that at the time of its execution of this Agreement, SELLER is not charged with any delinquent personal or real property taxes on the tax list and duplicate of CITY.

The representations and warranties made under this Section shall be deemed to have been remade by SELLER as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent to the date of this Agreement, which are set forth in a certificate prepared by SELLER and delivered to CITY on or before the Closing Date, which certificate upon delivery shall be deemed to constitute a part of this Agreement, provided that any such matter shall not affect CITY'S rights under this Agreement.

16. **THIRD-PARTY BENEFICIARY:** CITY, MENARD and SELLER each acknowledge that MENARD is a third-party beneficiary of the agreements set forth herein between CITY and SELLER.

17. **INDEMNIFICATION:** SELLER releases CITY from, and agrees that CITY shall not be liable for and indemnifies CITY against, all liabilities, claims, costs and expenses, including out-of-pocket and incidental expenses and reasonable legal fees, imposed upon, incurred or asserted against CITY on account of: (a) any material breach or default on the part of SELLER in the performance of any covenant, obligation or agreement of SELLER, or arising from any act or failure to act by SELLER, under this Agreement; (b) any representation or warranty made by SELLER to CITY in this Agreement proves to be false or misleading in any material respect when made or given; (c) a material breach of any warranty or covenant made by SELLER; (d) any action taken or omitted to be taken by CITY pursuant to the terms of this Agreement at the written request of SELLER; and (e) any claim, action or proceeding brought with respect to any matter set forth in clause (a), (b), (c) and (d) above; provided, that such losses did not result solely from (i) CITY'S willful misconduct or gross negligence, or (ii) CITY'S breach of any material representation, warranty or covenant made by it in this Agreement.

18. **CONDEMNATION:** If any portion of the City Parcel is condemned or threatened to be condemned or access thereto is taken or threatened to be taken subsequent to the Effective Date and prior to the Closing Date, SELLER must notify CITY of such action. Upon receipt of such notice from SELLER, if CITY reasonably concludes that the taking renders the City Parcel or any portion thereof unsuitable for the economic development or other use contemplated and CITY so notifies SELLER in writing within thirty (30) days after learning of such condemnation action, then this Agreement shall terminate. Upon termination both parties shall be released from all duties and obligations contained herein and the earnest money shall be delivered to CITY. If the Agreement is not terminated pursuant to the preceding sentence, the Purchase Price of the City Parcel shall not be affected, it being agreed that if the award is paid prior to the Closing of

this transaction, such amount shall be held in escrow and delivered to CITY at the Closing, and if the award has not been paid before the Closing, then at the Closing SELLER shall assign to CITY all of its right, title and interest with respect to such award and shall further execute any other instrument requested by CITY to assure that such award is paid to CITY. If CITY does not terminate this Agreement, it shall have the right to contest the condemnation of the City Parcel and/or the award resulting therefrom. SELLER shall not agree to or accept any compromise or condemnation award without obtaining CITY'S prior written approval.

19. **DEFAULT BY CITY:** If any of the representations and warranties of CITY are determined to be knowingly untrue or this transaction fails to close as a result of a default by CITY with respect to any of the terms of this Agreement, and such default continues for a period of five (5) days after SELLER notifies CITY in writing of such event, SELLER shall be entitled to receive the earnest money as liquidated damages as its sole remedy. The parties hereby acknowledge and agree that it is difficult or impossible to estimate accurately the damages that might be suffered by SELLER upon CITY'S default, and that the amount of the earnest money is a reasonable estimate of the amount of such damages. SELLER'S retention of the earnest money is intended not as a penalty, but as full liquidated damages due to the City Parcel being encumbered by this Agreement during the Agreement term and CITY'S failure to close.

20. **DEFAULT BY SELLER:** If any of the representations and warranties of SELLER are determined to be knowingly untrue or this transaction fails to close as a result of a default by SELLER with respect to any of the terms of this Agreement or SELLER refuses to perform any of its obligations as set forth herein, CITY may, as CITY'S sole and exclusive remedies against SELLER (CITY hereby waiving all other legal or equitable claims, including recovery of damages for such default), at its option, elect to:

(a) terminate this Agreement, and shall be entitled to the return of the earnest money;
or

(b) enforce specific performance of SELLER'S obligations hereunder, including specifically the conveyance of the City Parcel in the condition required hereby.

21. **NO MERGER:** Any provision hereof which by its terms would be performed after the Closing Date, including all warranties, representations and/or indemnities expressly made herein, shall survive the Closing and shall not be merged therein.

22. **GOVERNING LAW:** This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed and construed in accordance with the laws of said State.

23. **SEVERABILITY:** If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected, and in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision will be added as a part of this Agreement that is as similar to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

24. **CONSTRUCTION:** The rule of strict construction shall not apply to this Agreement. This Agreement has been prepared by SELLER and its professional advisors and reviewed and modified by CITY and MENARD and its professional advisors. SELLER, CITY, MENARD and their separate advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement, and that it should not be interpreted in favor of or against SELLER, CITY or MENARD merely because of their efforts in preparing it.

25. **NOTICE:** Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to CITY, MENARD or SELLER, as appropriate, at the appropriate mailing address listed in the first paragraph of this Agreement or to such other address as the recipient shall have previously notified the sender of in writing as provided in this Section. CITY, MENARD or SELLER, by notice given hereunder, may designate any further addressee or a different notice address to which subsequent notices, certificates, requests or other communications shall be sent.

26. **TIME:** Time is of the essence of this Agreement and each and every provision hereof.

27. **EXTENT OF PROVISIONS; NO PERSONAL LIABILITY.** All representations, warranties, covenants, agreements and obligations of CITY under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future member, officer, agent or employee of CITY in other than his or her official capacity.

No representation, warranty, covenant, agreement, obligation or stipulation contained in this Agreement shall be deemed to constitute a representation, warranty, covenant, agreement, obligation or stipulation of any present or future member, officer, agent or employee of CITY or SELLER in an individual capacity. No official executing or approving CITY'S or SELLER'S participation in this Agreement shall be liable personally under this Agreement.

28. **ENTIRE AGREEMENT:** All previous negotiations and understandings between SELLER, CITY and MENARD or their respective agents and employees with respect to the transaction set forth herein are merged in this Agreement which alone fully and completely expresses the parties' rights, duties and obligations with respect to its subject matter and which may be amended only by subsequent written agreement between SELLER, CITY and MENARD.

29. **ASSIGNMENT:** This Agreement may not be assigned by CITY, and this Agreement may only be assigned by SELLER or MENARD with the prior written consent of CITY, which consent shall not be unreasonably withheld if the assignee in a written form acceptable to CITY assumes all of the obligations of SELLER or MENARD pursuant to this Agreement and provides evidence satisfactory to CITY of its financial ability to perform those obligations.

30. **CONDITION OF PROPERTY:** CITY has examined the property and agrees that the property is being purchased “AS-IS, WHERE-IS” condition as of the Closing, and CITY expressly acknowledges that, in consideration of the agreements of SELLER herein, and except as otherwise expressly specified herein, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO TITLE, CONDITION, ZONING, AVAILABILITY OF ACCESS, INGRESS OR EGRESS, AVAILABILITY OF UTILITIES AND GOVERNMENTAL APPROVALS, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY.

31. **BINDING AGREEMENT:** Upon written acceptance and then either written or verbal notice of such acceptance to the last-offering party, this offer and any addenda listed below shall become a LEGALLY BINDING AGREEMENT UPON CITY, SELLER and MENARD and their heirs, executors, administrators and assigns and shall represent the entire understanding of the parties regarding this transaction. All counteroffers, amendments, changes or deletions to this Agreement shall be in writing and be signed by each of CITY, SELLER and MENARD. Facsimile signatures shall be deemed binding and valid. This Agreement shall be used as escrow instructions subject to the Title Company’s usual conditions of acceptance. For purposes of this Agreement, “days” shall be defined as calendar days.

32. **SURVIVAL OF REPRESENTATIONS AND WARRANTIES:** All representations and warranties of SELLER and CITY contained in this Agreement shall survive the execution and delivery of this Agreement and the recording of any deeds contemplated hereby.

[signature page follows]

This AGREEMENT is a legally binding contract. Each party has consulted with its counsel with respect to the provisions contained herein.

“CITY”:

THE CITY OF CUYAHOGA FALLS

By: _____

Its: _____

Date: _____

Approved as to form and correctness:

Russell Balthis
Director of Law
City of Cuyahoga Falls, Ohio

“SELLER”:

FIRST AKRON DEVELOPMENT
CORPORATION

By: _____

Name: David M. Hunter

Title: Vice President

“MENARD”:

MENARD, INC.

By: _____

Name: _____

Title: _____

882149v8
882149v9

FISCAL OFFICER'S CERTIFICATE

The undersigned, Director of Finance of the City of Cuyahoga Falls, Ohio under the foregoing Agreement, certifies hereby that the monies required to meet the obligations of the City during the year 2014 under the foregoing Agreement have been lawfully appropriated for that purpose, and will be in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: _____, 2014

Director of Finance
City of Cuyahoga Falls, Ohio

Exhibit A
Menard's Parcel Legal Description

GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782 • www.GBCdesign.com

June 26, 2014

LEGAL DESCRIPTION
First Akron Development Corporation
Cuyahoga Falls, Ohio
Lot Split Parcel – 9.2986 Acres

Situated in the City of Cuyahoga Falls, County of Summit, State of Ohio and known as being part of Original Lot 17 of former Northampton Township, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Deed Volume 4006, Page 181 of the Summit County records and more fully described as follows:

Beginning at a 5/8" capped rebar (GBC Design, Inc.) found at the northeasterly corner of Lot 3 of Kaye Subdivision as recorded in Reception #55056619 of the Summit County records;

Thence S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 186.68 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 22° 52' 38" E, along the westerly line of lands now or formerly owned by 101 Kappa Drive Association as recorded in Deed Volume 7180, Page 86 of the Summit County records, a distance of 116.73 feet to a 5/8" capped rebar (GBC Design, Inc.) found, which is the True Place of Beginning for the parcel of land herein described;

Thence N 03° 30' 50" E, along a line of new division, a distance of 192.05 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 37° 11' 29" W, along a line of new division, a distance of 193.83 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 63° 12' 48" E, along a line of new division, a distance of 257.29 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 67° 21' 35" E, along a line of new division, a distance of 136.34 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 76° 39' 07" E, along a line of new division, a distance of 100.45 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 32° 29' 44" E, along a line of new division, a distance of 143.26 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 88° 51' 55" E, along a line of new division, a distance of 108.06 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 41° 41' 34" E, along a line of new division, a distance of 179.23 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 73° 46' 38" E, along a line of new division, a distance of 184.72 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 00° 31' 54" W, along the westerly line of Meadowood Apartments Subdivision as recorded in Plat Cabinet "A", Slides 346-348 of the Summit County records, passing over a capped rebar (Patrick P.S. 6541) found at 359.47 feet, also passing over a 5/8" rebar found at 971.55 feet, a distance of 1002.66 feet to a point;

Lot Split Parcel
9.2986 Acres
Page 2 of 2
June 26, 2014

Thence S 75° 12' 00" W, along the centerline of Graham Road (C.H. 29) 60 feet wide, a distance of 13.57 feet to a point;

Thence continuing along the centerline of said Graham road, along the arc of a circle curving to the right having a central angle of 01° 00' 59", a radius of 1432.39 feet, a tangent of 12.70 feet, a chord of 25.41 feet, a chord bearing of S 75° 42' 29" W, and an arc length of 25.41 feet to point;

Thence N 00° 37' 29" E, along the easterly line of said 101 Kappa Drive Association lands, passing over a 5/8" capped rebar (GBC Design, Inc.) found at 31.00 feet, a distance of 650.15 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 89° 43' 38" W, along the northerly line of said 101 Kappa Drive Association lands, a distance of 789.50 feet to the True Place of Beginning and containing 9.2986 Acres of land, more or less, as surveyed in June, 2014 by Louis J. Giffels, Registered Surveyor No. 7790, with GBC Design, Inc., but subject to all legal highways and any restrictions, reservations or easements of record.

**Basis of bearing for this survey is the Ohio State Plane Coordinate System NAD83, Grid North.



Louis J. Giffels, P.S. Reg. No. 7790

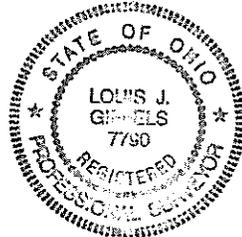


Exhibit B
City Parcel Legal Description

GBC DESIGN, INC.

565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782 • www.GBCdesign.com

June 26, 2014

LEGAL DESCRIPTION
First Akron Development Corporation
Cuyahoga Falls, Ohio
Lot Split Parcel – 24.0082 Acres

Situated in the City of Cuyahoga Falls, County of Summit, State of Ohio and known as being part of Original Lot 17 and part of Original Lot 27 of former Northampton Township, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Deed Volume 4006, Page 181 of the Summit County records, also known as being part of the lands now or formerly owned by First Akron Development Corporation as recorded in Reception No. 55453810 of the Summit County records and more fully described as follows:

Beginning at a 5/8" capped rebar (GBC Design, Inc.) found at the northeasterly corner of Lot 3 of Kaye Subdivision as recorded in Reception #55056619 of the Summit County records;

Thence S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 186.68 feet to a 5/8" capped rebar (GBC Design, Inc.) found, which is the True Place of Beginning for the parcel of land herein described;

Thence continuing S 89° 43' 38" W, along the northerly line of said Lot 3 of Kaye Subdivision, a distance of 49.74 feet to a point in Mud Run;

Thence S 27° 24' 38" W, along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 75.00 feet to a point in Mud Run;

Thence S 51° 15' 38" W, continuing along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 62.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 26° 23' 38" W, continuing along the westerly line of said Lot 3 of Kaye Subdivision, a distance of 107.15 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence S 50° 12' 12" W, along the northerly line of Falls Catholic Credit Union Inc. as recorded in Reception #54735364 of the Summit County records, also along the northerly line of lands now or formerly owned by Family Video Movie Club, Inc. as recorded in Reception #54762522 of the Summit county records, a distance of 276.83 feet to a point in Mud Run;

Thence S 63° 15' 22" W, continuing along the northerly line of said Family Video Movie Club, Inc. lands, a distance of 99.00 feet to a point in Mud Run on the westerly line of said Original Lot 17;

Thence N 01° 05' 05" W, along the westerly line of said Original Lot 17, also being the easterly line of lands now or formerly owned by Family Video Movie Club, Inc. as recorded in Reception #54762520 of the Summit county records, a distance of 71.61 feet to a point (witnessed by a capped rebar (L. Butterworth RLS5196) found S 60° 43' 28" W, 1.47');

Thence N 60° 43' 28" E, along a southerly line of People Care Park as recorded in Plat Cabinet "C", Slides 376-377 of the Summit County records, a distance of 130.49 feet to a capped rebar (Bock & Clark) found;

Lot Split Parcel
24.0082 Acres
Page 2 of 4
June 26, 2014

Thence N 33° 05' 48" E, continuing along a southerly line of said People Care Park, a distance of 493.17 feet to a point in Mud Run;

Thence N 47° 13' 48" W, along a northerly line of said People Care Park, a distance of 108.68 feet to a capped rebar (Campbell & Assoc., Inc.) found;

Thence S 86° 25' 08" W, continuing along a northerly line of said People Care Park, a distance of 220.65 feet to a point (witnessed by a capped rebar (Bock & Clark) found S 09° 23' 31" E, 0.19');

Thence N 51° 33' 10" W, continuing along a northerly line of said People Care Park, a distance of 210.11 feet to a capped rebar (Bock & Clark) found;

Thence S 79° 22' 59" W, continuing along a northerly line of said People Care Park, a distance of 175.75 feet to a bent capped rebar (Bock & Clark) found;

Thence N 69° 58' 57" W, continuing along a northerly line of said People Care Park, a distance of 134.80 feet to a capped rebar (Bock & Clark) found;

Thence S 49° 38' 47" W, continuing along a northerly line of said People Care Park, passing over a capped rebar (Bock & Clark) found at 75.48 feet, a distance of 117.29 feet to a point;

Thence along the centerline of Cleveland-Akron Road (A.K.A. State Road, S.R. 8, C.H. 16) width varies, along the arc of a circle curving to the right having a central angle of 26° 43' 55", a radius of 1909.86 feet, a tangent of 453.79 feet, a chord of 883.00 feet, a chord bearing of N 10° 15' 19" W, and an arc length of 891.06 feet to point;

Thence N 89° 23' 35" E, along the southerly line of lands now or formerly owned by Emidio & Sons as recorded in Reception #55940312 of the Summit County records, passing over a 1" bent iron pipe found at 40.09 feet, a distance of 831.12 feet to a point (witnessed by a 1" bent rebar found N 89° 23' 35" E, 0.22');

Thence S 00° 39' 45" E, along the westerly line of lands now or formerly owned by Emidio & Sons as recorded in Reception #55940328 of the Summit County records, a distance of 151.86 feet to a 1" bar w/dimple found;;

Thence N 57° 10' 12" E, along a southerly line of said Emidio & Sons lands, a distance of 275.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 67° 19' 13" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 110.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 86° 49' 48" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 100.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 82° 07' 18" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 113.00 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 60° 46' 18" E, continuing along a southerly line of said Emidio & Sons lands, a distance of 211.06 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 00° 59' 40" W, along the easterly line of said Emidio & Sons lands, a distance of 356.34 feet to a 5/8" capped rebar (GBC Design, Inc.) found;

Thence N 89° 03' 05" E, along the southerly line of East Bath Road (C.H. 48) width varies, a distance of 50.00 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Lot Split Parcel
24.0082 Acres
Page 3 of 4
June 26, 2014

Thence S 00° 59' 40" E, along a new line of division, a distance of 386.21 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 60° 46' 18" W, along a new line of division, a distance of 250.39 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 82° 07' 18" W, along a new line of division, a distance of 124.48 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 86° 49' 48" W, along a new line of division, a distance of 93.46 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 67° 19' 13" W, along a new line of division, a distance of 96.96 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 57° 10' 12" W, along a new line of division, a distance of 381.12 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 26° 17' 41" E, along a new line of division, a distance of 397.53 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 69° 23' 58" E, along a new line of division, a distance of 253.47 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 41° 26' 08" E, along a new line of division, a distance of 115.12 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 69° 32' 43" E, along a new line of division, a distance of 97.79 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 74° 27' 33" E, along a new line of division, a distance of 123.00 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 56° 20' 05" E, along a new line of division, a distance of 118.90 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 87° 02' 04" E, along a new line of division, a distance of 165.15 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 52° 52' 38" E, along a new line of division, a distance of 320.21 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 00° 31' 54" W, along the westerly line of Meadowood Apartments Subdivision as recorded in Plat Cabinet "A", Slides 346-348 of the Summit County records, a distance of 103.13 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 73° 46' 38" W, along a new line of division, a distance of 184.72 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 41° 41' 34" W, along a new line of division, a distance of 179.23 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence N 88° 51' 55" W, along a new line of division, a distance of 108.06 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 32° 29' 44" W, along a new line of division, a distance of 143.26 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 76° 39' 07" W, along a new line of division, a distance of 100.45 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

GBC DESIGN, INC. 565 White Pond Drive • Akron, OH 44320-1123 • Phone 330-836-0228 • Fax 330-836-5782

Lot Split Parcel
24.0082 Acres
Page 4 of 4
June 26, 2014

Thence N 67° 21' 35" W, along a new line of division, a distance of 136.34 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

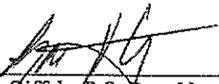
Thence S 63° 12' 48" W, along a new line of division, a distance of 257.29 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 37° 11' 29" E, along a new line of division, a distance of 193.83 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 03° 30' 50" W, along a new line of division, a distance of 192.05 feet to a 5/8" capped rebar (GBC Design, Inc.) to be set;

Thence S 22° 52' 38" W, along a westerly line of lands now or formerly owned by 101 Kappa Drive Association as recorded in Deed Volume 7180, Page 86 of the Summit County records, a distance of 116.73 feet to the True Place of Beginning and containing 24.0082 Acres of land (13.1782 Acres in Original Lot 17 & 10.8300 Acres in Original Lot 27), more or less, as surveyed in June, 2014 by Louis J. Giffels, Registered Surveyor No. 7790 with GBC Design, Inc., but subject to all legal highways and any restrictions, reservations or easements of record.

**Basis of bearing for this survey is the Ohio State Plane Coordinate System NAD83, Grid North.



Louis J. Giffels, P.S. Reg. No. 7790

