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Lorain County, Ohio
Judith M Nedwick County Recorder

File **2014-0510125**

To be recorded with Deed
Records - ORC § 317.08

ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by IRG Lorain, LLC, and the Ohio Environmental Protection Agency ("Ohio EPA") pursuant to Ohio Revised Code ("ORC") §§ 5301.80 to 5301.92 for the purpose of subjecting the Property described in section 2 herein ("Property") to the activity and use limitations set forth herein.

WHEREAS, IRG Lorain, LLC is the owner of certain real property located at 5401 Baumhart Road, Lorain, Ohio 44053, and legally described in Exhibit 1 attached hereto (collectively referred to herein as the "Property"). Ford Motor Company previously owned and operated an automotive manufacturing plant at the Property and sold the Property to IRG Lorain, LLC in December 2006. The US EPA hazardous waste Identification Number for the Property is OHD 004227815.

WHEREAS, Ford Motor Company entered into Director's Final Findings and Orders on January 27, 1994 ("DFFOs") with Ohio EPA to address violations of ORC § 3734.02(E) for establishment or operation of a hazardous waste storage, treatment, or disposal facility without a permit and hazardous waste rules under Ohio Administrative Code ("OAC") Chapters 3745-52, 3745-65, and 3745-66. The 1994 DFFOs required closure of a less than ninety (90) day hazardous waste accumulation underground storage tank ("UST #30") at the Property pursuant to ORC Chapter 3734 and OAC rules 3745-52-34, 3745-66-11, and 3745-66-14. UST #30 was previously operated at the pumpable waste storage pad at the Property and was removed from the ground and properly disposed of in May 1991.

WHEREAS, environmental assessment work completed by the Ford Motor Company and IRG Lorain, LLC pursuant to the DFFO have demonstrated that concentrations of remnant hazardous constituents in environmental media at UST #30 meet all requirements for an industrial hazardous waste unit closure.

WHEREAS, the principal contaminants of concern at the Property are xylenes. The potential pathways of exposure from contaminants at the Property include, but are not limited to, incidental ingestion and dermal contact of soil by construction workers. Based on the results of modeling, there would be an unacceptable risk to human health from vapor intrusion in basements or other permanent subsurface or underground structures used for routine human occupancy built on the unit.

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WHEREAS, the Administrative Record is maintained as the file titled, *Ford-Lorain-IRG (Assembly Plant)*; OHD004227815; Lorain County, in the Ohio EPA Northeast District Office, 2010 East Aurora Road, Twinsburg, Ohio 44087; and

WHEREAS, the implementation of the activity and use limitations presented herein shall complete the requirements for an industrial hazardous waste unit closure under the 1994 DFFOs and the applicable OAC rules and such limitations are protective of human health and the environment and to prevent conditions at the Property from constituting or threatening to cause or contribute to air or water pollution or soil contamination.

Now therefore, IRG Lorain, LLC and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.

2. Property. This Environmental Covenant concerns approximately 2,855.25 square feet (approximately 0.0655 acre) of real property (a portion of Lorain County parcel No. 01-00-007-103-009), addressed as 5401 Baumhart Road, in Lorain, Ohio, and more particularly described in Exhibit 1, attached hereto and incorporated by herein by reference ("Property").

3. Owner. The Property is owned by IRG Lorain, LLC ("Owner"), with a primary place of business located at 4020 Kinross Lakes Parkway, Richfield, Ohio 44286.

4. Holder. Pursuant to ORC § 5301.81, the holder of this Environmental Covenant ("Holder") is the Owner listed above.

5. Activity and Use Limitations. As part of the closure of the hazardous waste management unit on the Property, Owner hereby imposes and agrees to comply with the following activity and use limitations:

A. The Property shall not be used for Residential Activities or Restricted Agricultural Activities. The term "Residential Activities" shall include, but not be limited to, the following:

- (1) Single and multi-family dwelling and rental units;
- (2) Day care centers and preschools;
- (3) Child educational (except as a part of industrial or commercial activities within the Property) and religious facilities;
- (4) Outdoor parks and playgrounds;
- (5) Correctional facilities;
- (6) Hospitals and other extended care medical facilities;
- (7) Transient or other residential facilities.

The term "Restricted Agricultural Activities" shall mean the production of food-chain products by outdoor soil based agricultural means for animal and human consumption.

- B. Limitation Prohibiting Groundwater Extraction and Use: Ground water located within or upon the Property shall not be used except for investigation, monitoring, or remediation purposes.
- C. The Property may be used for industrial land use, provided that the structures are built without basements or other permanent subsurface or underground structures used for routine human occupancy.

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner, and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term "Transferee", as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to ORC § 5301.91 or other applicable law. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce against any non-compliance. Nothing in this Environmental Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law.

8. Rights of Access. Owner hereby grants to Ohio EPA's authorized representatives the right of access to the Property for implementation or enforcement of this Environmental Covenant.

9. Compliance Reporting. Owner or Transferee shall submit to Ohio EPA on an annual basis a written certification which complies with the requirements of OAC rule 3745-50-42(B), (C), and (D) that the activity and use limitations remain in place and are being complied with.

10. Recordation of Environmental Covenant. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Lorain County Recorder's Office pursuant to ORC § 5301.88. Owner shall certify to Ohio EPA that the Environmental Covenant has been filed for recording, and include with the certification a file and date-stamped copy of the Environmental Covenant.

11. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion thereof shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE LORAIN COUNTY RECORDER ON _____, 201__, IN [DOCUMENT _____, or BOOK____, PAGE _____]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

- A. The Property shall not be used for Residential Activities or Restricted Agricultural Activities. The term "Residential Activities" shall include, but not be limited to, the following:
- (1) Single and multi-family dwelling and rental units;
 - (2) Day care centers and preschools;
 - (3) Child educational (except as a part of industrial or commercial activities within the Property) and religious facilities;
 - (4) Outdoor parks and playgrounds;
 - (5) Correctional facilities;
 - (6) Hospitals and other extended care medical facilities;
 - (7) Transient or other residential facilities.

The term "Restricted Agricultural Activities" shall mean the production of food-chain products by outdoor soil based agricultural means for animal and human consumption.

- B. Limitation Prohibiting Groundwater Extraction and Use: Ground water located within or upon the Property shall not be used except for investigation, monitoring, or remediation purposes.
- C. The Property may be used for industrial land use, provided that the structures are built without basements or other permanent subsurface or underground structures used for routine human occupancy.

Owner shall notify Ohio EPA within ten (10) days after each conveyance of an interest in the Property or any portion thereof. The notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, a legal description of the Property being transferred, a survey map that shows the boundaries of the property being transferred, and the closing date of the transfer of ownership of the Property.

12. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property which is not subject to the interests or encumbrances that conflict with the activity and use limitations set forth in this Environmental Covenant;
- C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- D. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

13. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner, or a Transferee; and the Director of the Ohio EPA, pursuant to ORC § 5301.90 and other applicable law. The term, Amendment, as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations so long as there is at least one limitation remaining. The term, Termination, as used in this Environmental Covenant, shall mean the elimination of all activity and use limitations set forth herein and all other obligations under this Environmental Covenant.

This Environmental Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA and by the Owner or Transferee, if applicable, of the Property or any portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Environmental Covenant, the Owner or Transferee, if applicable, shall file such instrument for recording with the Lorain County Recorder's Office, and shall provide a file- and date-stamped copy of the recorded instrument to Ohio EPA.

14. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

Environmental Covenant
IRG Lorain, LLC

16. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Lorain County Recorder's Office.

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: Ohio EPA, any lessee, each person holding a recorded interest in the Property, each unit of local government in which the Property is located, and any other person designated by Ohio EPA.

18. Notice. Unless otherwise notified in writing by any party hereto or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

Ohio EPA – Central Office
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

and

Ohio EPA – Northeast District Office
Division of Environmental Response and Revitalization
2010 East Aurora Road
Twinsburg, Ohio 44087
Attn.: DERR Manager

and

IRG Lorain, LLC
4020 Kinross Lakes Parkway
Richfield, Ohio 44286
Attn: Stuart Lichter, Managing Member or his successor

The undersigned represents and certifies that the undersigned is authorized to execute this Environmental Covenant.

Environmental Covenant
IRG Lorain, LLC

OHIO ENVIRONMENTAL PROTECTION AGENCY



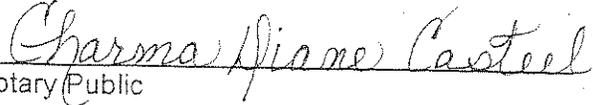
Craig W. Butler, Director

State of Ohio)
) ss:
County of Franklin)

Before me, a notary public, in and for Franklin County, Ohio, personally appeared Craig W. Butler, Director of Ohio EPA, who acknowledged to me that he did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 23RD day of JUNE, 2014.




Notary Public

CHARMA DIANE CASTEEL
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
May 10, 2019

This instrument was prepared by:

Mark A. Norman, Esq.
Vorys, Sater, Seymour and Pease LLP
301 East Fourth Street
Suite 3500
Cincinnati, OH 45202

Environmental Covenant
IRG Lorain, LLC

EXHIBIT 1

Property legal description and figure

LEGAL DESCRIPTION

For

Former UST #30

2855.25 sq. ft.

Situated in the City of Lorain, County of Lorain and State of Ohio:
Known as being part of property owned by I.R.G. Lorain LLC, as recorded in document
number 20060181723 of Lorain County Records:

Beginning at the centerline intersection of Baumhart Road (width varies) and West Erie
Avenue (S.R. 6) (width varies) (N:641896.87, E: 2028763.81); THENCE, S 39°16'35" E,
a distance of 2789.41 feet to the Principal Place of Beginning;

THENCE, the following courses and distances:

Line Course: S 83-09-37 E Length: 40.50;

Line Course: S 06-50-23 W Length: 70.50;

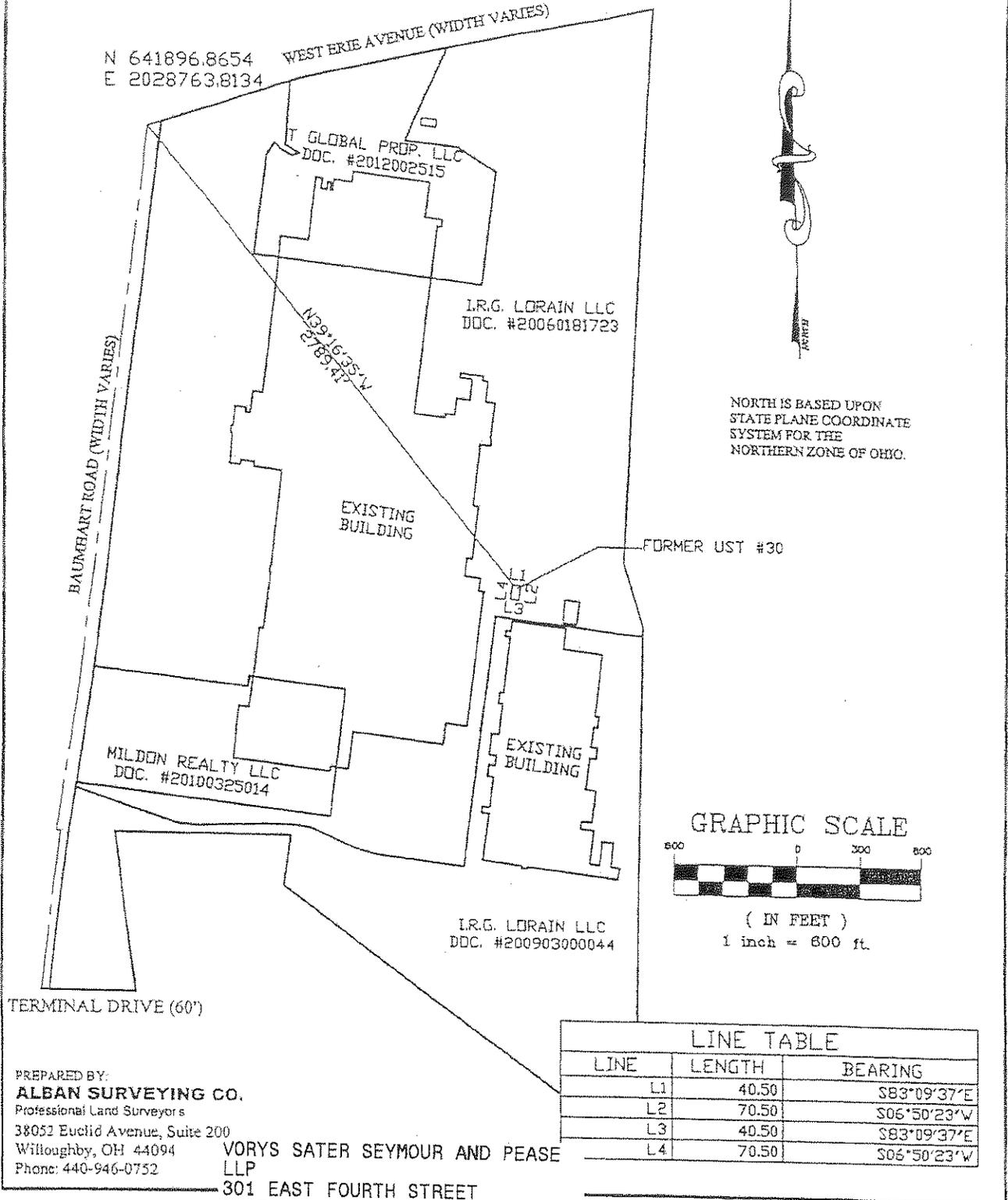
Line Course: N 83-09-37 W Length: 40.50;

Line Course: N 06-50-23 E Length: 70.50, to the Principal Place of Beginning and
containing 2855.25 square feet of land as calculated and described by John R. Alban
Professional Surveyor 7651.

EXHIBIT FOR FORMER UST #30

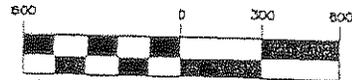
FOR:
I.R.G. LORAIN LLC
LORAIN, OHIO

SITUATED IN THE CITY OF LORAIN, COUNTY OF LORAIN AND
STATE OF OHIO.



NORTH IS BASED UPON
STATE PLANE COORDINATE
SYSTEM FOR THE
NORTHERN ZONE OF OHIO.

GRAPHIC SCALE



(IN FEET)
1 inch = 800 ft.

LINE TABLE

LINE	LENGTH	BEARING
L1	40.50	S83°09'37"E
L2	70.50	S06°50'23"W
L3	40.50	S83°09'37"E
L4	70.50	S06°50'23"W

PREPARED BY:
ALBAN SURVEYING CO.
Professional Land Surveyors
38052 Euclid Avenue, Suite 200
Willoughby, OH 44094
Phone: 440-946-0752

**VORYS SATER SEYMOUR AND PEASE
LLP**
301 EAST FOURTH STREET
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TOWER
CINCINNATI, OH 45202

