

**ORDINANCE NO. 2008- 86**

**AN ORDINANCE ACCEPTING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN AGREEMENT WITH THE CITY OF KENT, OHIO, OBTAINING A TEMPORARY EASEMENT OF 1,854 SQUARE FEET; AND A PERPETUAL EASEMENT OF 642 SQUARE FEET OF REAL PROPERTY FROM BRADY'S LEAP PARTNERS, 315 GOUGLER FOR \$6,143.00 FOR PURPOSES OF RIGHT-OF-WAY ACQUISITION, AND THE CONSTRUCTION OF THE NEW CRAIN AVENUE/FAIRCHILD AVENUE BRIDGE PROJECT AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Kent Council desires to obtain a temporary easement of 1,854 square feet; and a perpetual easement of 642 square feet of property from Brady's Leap Partners, 315 Gougler in Kent/Franklin Township, Portage County, Ohio; and

**WHEREAS**, Brady's Leap Partners is willing to grant the temporary and perpetual easements in said property for \$6,143.00; and

**WHEREAS**, the City needs the property for right-of-way purposes for the construction of the new Crain Avenue/Fairchild Avenue Bridge project; and

**WHEREAS**, time is of the essence because the sooner the City acquires the necessary right-of-way for this project, the sooner construction may begin.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto:

**SECTION 1.** That Council does hereby accepts and authorizes the City Manager or his designee to execute the agreement for the City of Kent to obtain a temporary easement of 1,854 square feet; and a perpetual easement of 642 square feet from Brady's Leap Partners, 315 Gougler for \$6,143.00 for right-of-way purposes for the Crain Avenue/Fairchild Avenue Bridge project in substantial conformity with the terms of the Purchase Agreement marked as Exhibit "1", attached hereto and incorporated herein.

**SECTION 2.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the residents of this City, for which reason and other reasons manifest to this Council this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 5/21/08  
DATE

\_\_\_\_\_  
MAYOR AND PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2008- 86 was duly enacted this 21 day of May, 2008 by the Council of the City of Kent, Ohio.

\_\_\_\_\_  
Linda M. Copley, Clerk of Council

## STANDARD HIGHWAY EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS THAT: Brady's Leap Partners, Limited Partnership, the Grantor(s) herein, in consideration of the sum of \$2,670.00, to be paid by City of Kent, the Grantee herein, does hereby grant, bargain, sell, convey and release to said Grantee, its successors and assigns forever, an easement, which is more particularly described in Exhibit A attached hereto, within the following described real estate:


PARCEL(S): 87 SHV  
POR-Crain Avenue

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF  
Prior Instrument Reference: Warranty Deed Official Records Volume 440, Page 772 Portage County Recorder's Office.

And the said Grantor(s), for themselves and their successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that they are the true and lawful owner(s) of said premises, and is lawfully seized of the same in fee simple, and have good right and full power to grant, bargain, sell, convey and release the same in the manner aforesaid, and that the same are free and clear from all liens and encumbrances whatsoever, except: (a) easements, restrictions, conditions, and covenants of record; (b) all legal highways; (c) zoning and building laws, ordinances, rules, and regulations; and (d) any and all taxes and assessments not yet due and payable; and that Grantor(s) will warrant and defend the same against all claims of all persons whomsoever.

IN WITNESS WHEREOF BRADY'S LEAP PARTNERS, LIMITED PARTNERSHIP has caused its name to be subscribed by Dale R. Adams, its limited partner(s) on the 18 day of Feb 2008.

BRADY'S LEAP PARTNERS, LIMITED PARTNERSHIP

By:   
Dale R. ADAMS

By: \_\_\_\_\_

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the 18<sup>th</sup> day of February, 2008, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Dale R. ADAMS, who acknowledged being a general or managing partner(s) and duly authorized agent(s) of BRADY'S LEAP PARTNERS, LIMITED PARTNERSHIP, and who signed or acknowledged the signing of the foregoing instrument to be the voluntary act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

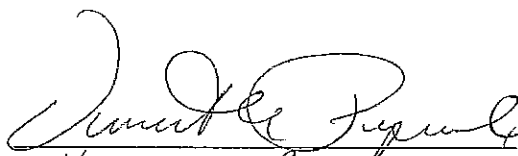
  
Vincent A. Pasquale  
NOTARY PUBLIC  
My Commission expires: 8/2/10

EXHIBIT A

PARCEL 87-SHV  
POR-CRAIN\_AVENUE  
PERPETUAL EASEMENT FOR HIGHWAY PURPOSES  
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS  
IN THE NAME AND FOR THE USE OF THE  
CITY OF KENT, PORTAGE COUNTY, OHIO

An exclusive perpetual easement for public highway and road purposes, including, but not limited to any utility construction, relocation and/or utility maintenance work deemed appropriate by the City Of Kent, Portage County, Ohio, its successors and assigns forever.

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the City of Kent, County of Portage and State of Ohio, being part of Lot 25 of Original Franklin Township, T-3-N, R-9-W, being a parcel of land lying on the right side of the centerline of right-of-way of S.R. 43 (Gougler Avenue) (60 feet), as shown on the POR-CRAIN AVENUE plans made for the City of Kent, Ohio by ARCADIS G & M of Ohio, Inc. and as recorded in Reception Number \_\_\_\_\_ of the records of Portage County, Ohio and being located within the following described points in the boundary thereof:

Commencing at a 1" bar in a monument box found at the intersection of the centerline of right-of-way of Rockwell Street (49.5 feet) and the centerline of right-of-way of S.R. 43 (Gougler Avenue) (60 feet), said monument box at Station 634+26.46 on the centerline of right-of-way of S.R. 43 (Gougler Avenue);

Thence South 78° 05' 42" East 31.44' along the centerline extension of Rockwell Street to the easterly right-of-way line of S.R. 43 (Gougler Avenue) at Station 634+17.06, 30.00' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence South 05° 28' 50" East 271.82' along the easterly right-of-way line of S.R. 43 (Gougler Avenue) to an angle point at Station 631+47.69, 30.00' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence South 03° 50' 05" East 59.85' continuing along the easterly right-of-way line of S.R. 43 (Gougler Avenue) to the northwesterly corner of a parcel of land now or formerly owned by Brady's Leap Partners, Ltd. (Grantor) recorded in Volume 1162, Page 149, at Station 630+90.28, 30.00' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue), witness an iron pin found at Station 630+90.43, 30.06' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence South 86° 42' 48" East 113.46' along the northerly property line of said Brady's Leap Partners, Ltd. parcel to Station 630+91.37, 143.46' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue); also being the TRUE PLACE OF BEGINNING of the easement herein described:

1. Thence South 86° 42' 48" East 30.51' continuing along the northerly property line of said Brady's Leap Partners, Ltd. parcel to Station 630+91.69, 177.07' right of the centerline of S.R. 43 (Gougler Avenue);
2. Thence along the arc of a curve to the left, said curve having a delta of 04° 44' 34", a radius of 68.00', a tangent of 2.82' and a chord of 5.63' with a chord bearing of South 44° 34' 51" East, an arc distance of 5.63' to a point of tangency, said point being at Station 630+87.92, 178.18'

EXHIBIT A

RX 271  
Rev. 09/06

PID 18466  
PARCEL 87-SHV  
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12/01/06

- right of the centerline of right-of-way of S.R. 43 (Gougler Avenue);
- 3. Thence South 46° 57' 08" East 7.52' through said Brady's Leap Partners, Ltd. parcel to the easterly property line of said parcel to Station 630+83.17, 184.00' right of the centerline of S.R. 43 (Gougler Avenue);
- 4. Thence South 36° 44' 15" West 24.15' through said Brady's Leap Partners, Ltd. parcel to Station 630+62.90, 170.89' right of the centerline of S.R. 43 (Gougler Avenue);
- 5. Thence North 46° 57' 08" West 10.17' through said Brady's Leap Partners, Ltd. parcel to a point of tangency, said point being at Station 630+69.33, 163.01' right of the centerline of S.R. 43 (Gougler Avenue);
- 6. Thence along the arc of a curve to the right, said curve having a delta of 18° 25' 33", a radius of 92.00', a tangent of 14.92' and a chord of 29.46' with a chord bearing of North 37° 44' 22" West, an arc distance of 29.59' to the northerly property line of said Brady's Leap Partners, Ltd. parcel, said point being the TRUE PLACE OF BEGINNING.

The above described parcel contains 642 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 642 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Number 170253000005 and subject to all legal highways and easements of record.

Grantor herein retains the right to use said lands for any and all other purposes provided that such use does not interfere with nor impair the exercise of the easement herein granted.

This description was prepared by Angela M. Metz, E.L. in December 2006 under the direct supervision of Charles A. Hauber, Registered Surveyor Number 8034 and is based on a field survey performed by Finkbeiner, Pettis & Strout, Inc. (now known as ARCADIS G & M of Ohio, Inc.) in 2004 under the direction and supervision of Michael E. Durbin, Registered Surveyor Number 7528.

Bearings in this description are based on the Ohio Coordinate System, NAD83(86), North Zone.

Grantor claims title by instrument(s) of record in Volume 1162, Page 149 of the records of Portage County.

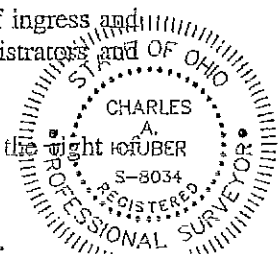
The stations referred to herein are from the centerline of right-of-way of S.R. 43 (Gougler Avenue) as found on the City of Kent Right-of-Way Plan POR-CRAIN AVENUE.

Iron pins set in the above description are 5/8 inch diameter by 30 inch long rebars with a plastic cap stamped "HAUBER 8034" or a drill hole depending upon the nature of the material that is present at each corner after construction.

Grantor conveys all of the property described above, except they reserve the right of ingress and egress to and from S.R. 43 (Gougler Avenue) for himself and his heirs, executors, administrators and assigns.

Grantor, for himself and his heirs, executors, administrators and assigns, reserves the right of ingress and egress to and from any residual area.

This instrument prepared by ARCADIS G & M of Ohio, Inc. for the City of Kent, Ohio.



*Ch A Hauber*  
26 Dec 2006

## TEMPORARY RIGHT OF WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Brady's Leap Partners, Limited Partnership, the Grantor(s) herein, in consideration of the sum of \$3,473.00, to be paid by City of Kent, the Grantee herein, does hereby grant, bargain, sell, convey and release to said Grantee, its successors and assigns forever, a temporary easement to exclusively occupy and use for the purposes mentioned in Exhibit "A" the following described real estate:

PARCEL(S): 87 TV  
POR-Crain Ave

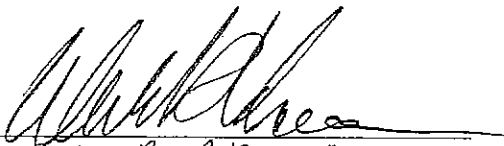
SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF  
Prior Instrument Reference: Warranty Deed Official Records Volume 440, Page 772, Portage County Recorder's Office.

To have and to hold said temporary easement, for the aforesaid purposes and for the anticipated period of time described below, unto the Grantee, its successors and assigns forever.

The duration of the temporary easement herein granted to the Grantee is 24 months immediately following the date on which the work described above is first commenced by the Grantee, or its duly authorized employees, agents, and contractors.

IN WITNESS WHEREOF BRADY'S LEAP PARTNERS, LIMITED PARTNERSHIP has caused its name to be subscribed by Dale R. Adams, its limited partner(s) on the 18 day of Feb., 2008.

BRADY'S LEAP PARTNERS, LIMITED PARTNERSHIP

By:   
Dale R. ADAMS

By: \_\_\_\_\_

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the 18<sup>th</sup> day of February, 2008, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Dale R. ADAMS, who acknowledged being a general or managing partner(s) and duly authorized agent(s) of BRADY'S LEAP PARTNERS, LIMITED PARTNERSHIP, and who signed or acknowledged the signing of the foregoing instrument to be the voluntary act and deed of said entity.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

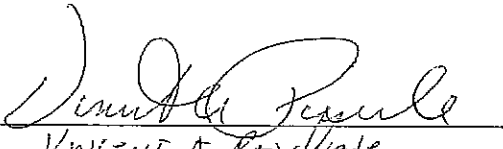
  
VINCENT A. PROFFITT  
NOTARY PUBLIC  
My Commission expires: 8/2/10

EXHIBIT A

PARCEL 87-TV  
POR-CRAIN\_AVENUE  
TEMPORARY EASEMENT FOR THE PURPOSE OF  
PERFORMING THE WORK NECESSARY TO  
COMPLETE GRADING  
FOR APPROXIMATELY 24 MONTHS FROM DATE OF ENTRY BY THE  
CITY OF KENT, PORTAGE COUNTY, OHIO

[Surveyor's description of the premises follows]

Situated in the City of Kent, County of Portage and State of Ohio, being part of Lot 25 of Original Franklin Township, T-3-N, R-9-W, being a parcel of land lying on the right side of the centerline of right-of-way of S.R. 43 (Gougler Avenue) (60 feet), as shown on the POR-CRAIN AVENUE plans made for the City of Kent, Ohio by ARCADIS G & M of Ohio, Inc. and as recorded in Reception Number \_\_\_\_\_ of the records of Portage County, Ohio and being located within the following described points in the boundary thereof:

Commencing at a 1" bar in a monument box found at the intersection of the centerline of right-of-way of Rockwell Street (49.5 feet) and the centerline of right-of-way of S.R. 43 (Gougler Avenue) (60 feet), said monument box at Station 634+26.46 on the centerline of right-of-way of S.R. 43 (Gougler Avenue);

Thence South  $78^{\circ} 05' 42''$  East  $31.44'$  along the centerline extension of Rockwell Street to the easterly right-of-way line of S.R. 43 (Gougler Avenue) at Station 634+17.06,  $30.00'$  right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence South  $05^{\circ} 28' 50''$  East  $271.82'$  along the easterly right-of-way line of S.R. 43 (Gougler Avenue) to an angle point at Station 631+47.69,  $30.00'$  right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence South  $03^{\circ} 50' 05''$  East  $59.85'$  continuing along the easterly right-of-way line of S.R. 43 (Gougler Avenue) to the northwesterly corner of a parcel of land now or formerly owned by Brady's Leap Partners, Ltd. (Grantor) recorded in Volume 1162, Page 149, at Station 630+90.28,  $30.00'$  right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue), witness an iron pin found at Station 630+90.43,  $30.06'$  right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence South  $86^{\circ} 42' 48''$  East  $79.07'$  along the northerly property line of said Brady's Leap Partners, Ltd. parcel to Station 630+91.04,  $109.07'$  right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue); also being the TRUE PLACE OF BEGINNING of the temporary easement herein described:

1. Thence South  $86^{\circ} 42' 48''$  East  $34.39'$  continuing along the northerly property line of said Brady's Leap Partners, Ltd. parcel to Station 630+91.37,  $143.46'$  right of the centerline of S.R. 43 (Gougler Avenue);
2. Thence along the arc of a curve to the left, said curve having a delta of  $18^{\circ} 25' 33''$ , a radius of  $92.00'$ , a tangent of  $14.92'$  and a chord of  $29.46'$  with a chord bearing of South  $37^{\circ} 44' 22''$  East, an arc distance of  $29.59'$  to a point of tangency, said point being at Station 630+69.33,  $163.01'$  right of the centerline of right-of-way of S.R. 43 (Gougler Avenue);
3. Thence South  $46^{\circ} 57' 08''$  East  $10.17'$  through said Brady's Leap Partners, Ltd. parcel to Station 630+62.90,  $170.89'$  right of the centerline of S.R. 43 (Gougler Avenue);
4. Thence South  $43^{\circ} 57' 22''$  West  $37.90'$  through said Brady's Leap Partners, Ltd. parcel to the Station 630+33.91,  $146.46'$  right of the centerline of S.R. 43 (Gougler Avenue);
5. Thence North  $34^{\circ} 30' 08''$  West  $55.04'$  through said Brady's Leap Partners, Ltd. parcel to an



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- angle point at Station 630+77.12, 112.32' right of the centerline of S.R. 43 (Gougler Avenue);
- 6. Thence North 09° 17' 51" West 14.33' through said Brady's Leap Partners, Ltd. parcel to the TRUE PLACE OF BEGINNING.

The above described parcel contains 1854 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 1854 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Number 170253000005 and subject to all legal highways and easements of record.

This description was prepared by Angela M. Metz, E.I. in December 2006 under the direct supervision of Charles A. Hauber, Registered Surveyor Number 8034 and is based on a field survey performed by Finkbeiner, Pettis & Strout, Inc. (now known as ARCADIS G & M of Ohio, Inc.) in 2004 under the direction and supervision of Michael E. Durbin, Registered Surveyor Number 7528.

Bearings in this description are based on the Ohio Coordinate System, NAD83(86), North Zone.

The stations referred to herein are from the centerlines of right-of-way of S.R. 43 (Gougler Avenue) as found on the City of Kent Right-of-Way Plan POR-CRAIN AVENUE.

Iron pins set in the above description are 5/8 inch diameter by 30 inch long rebars with a plastic cap stamped "HAUBER 8034" or a drill hole set depending upon the nature of the material that is present at each corner after construction.

It is understood the area of land above described contains 1854 square feet, more or less.

Grantor claims title by instrument(s) of record in Volume 1162, Page 149 of the records of Portage County.

This instrument prepared by ARCADIS G & M of Ohio, Inc. for the City of Kent, Ohio.



*Charles A. Hauber*  
20 Dec 2006