

ORDINANCE NO. 2008- 87

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 5,709 SQUARE FEET; AND A PERPETUAL EASEMENT OF 3,042 SQUARE FEET OF REAL PROPERTY FROM KENT DOWNTOWN COMMUNITY URBAN REDEVELOPMENT CORP., FAIRCHILD AVENUE FOR \$22,595.00 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 5,709 square feet; and a perpetual easement of 3,042 square feet of property from Kent Downtown Community Urban Redevelopment Corp., Franklin Avenue in Kent/Franklin Township, Portage County, Ohio; and

WHEREAS, Kent Downtown Community Urban Redevelopment Corp. is willing to grant the temporary and perpetual easements in said property for \$22,595.00; 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 5,709 square feet; and a perpetual easement of 3,042 square feet from Kent Downtown Community Urban Redevelopment Corp., Franklin Avenue for \$22,595.00 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: 05/21/08
DATE

MAYOR AND PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2008- 87 was duly enacted this 21 day of May, 2008 by the Council of the City of Kent, Ohio.

Linda M. Copley, Clerk of Council

TEMPORARY RIGHT OF WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Kent Downtown Community Urban Redevelopment Corporation., the Grantor(s) herein, in consideration of the sum of \$5,771.00, 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): 84 TV
POR-Crain Ave

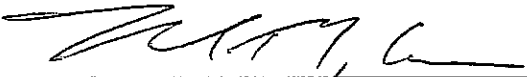
SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Prior Instrument Reference: Instr. #200337512, Instr.#200309814, Warranty Deed Official Records
Volume 488 Page 165 & Warranty Deed Official Records Volume 56 Page 995 Portage County
Recorder's Office.

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 Kent Downtown Community Urban Redevelopment Corporation has caused its name to be subscribed by Howard Boyle, its duly authorized agent on the 19th day of March, 2008.

KENT DOWNTOWN COMMUNITY URBAN REDEVELOPMENT CORPORATION


By: Howard Boyle, President

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the 14th day of March, 2008, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Howard Boyle, who acknowledged being the President, and duly authorized agent of Kent Downtown Community Urban Redevelopment Corporation, 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.

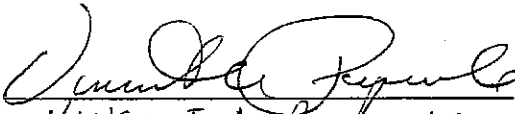

VINCENT A. PASQUALE
NOTARY PUBLIC
My Commission expires: 8/2/10

EXHIBIT A

RX 287
Rev. 09/06

Page 1 of 2
PID 18466
PARCEL 84-TV
CTY-RTE-SEC POR-CRAIN_AVENUE
Version Date 10/25/07

**PARCEL 84-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° 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 148.98'** 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 Kent Downtown Community Urban Redevelopment Corporation (Grantor) recorded in Instrument Number 200337512, at Station 632+68.09, 30.00' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence **North 84° 31' 10" East 62.26'** along the northerly property line of said Kent D.C.U.R.C. parcel to Station 632+68.08, 92.26' 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 **North 84° 31' 10" East 23.26'** continuing along the northerly property line of said Kent D.C.U.R.C. parcel to the northeast corner of said parcel at Station 632+68.08, 115.53' right of the centerline of S.R. 43 (Gougler Avenue);
2. Thence **South 34° 34' 54" East 1.97'** along the easterly property line of said Kent D.C.U.R.C. parcel to Station 632+66.36, 116.49' right of the centerline of S.R. 43 (Gougler Avenue);
3. Thence **South 08° 29' 28" East 166.52'** along the westerly line of the proposed Public Access easement parallel with and 12.00' left of the Bike Path centerline to a point of curvature at Station 631+20.64, 131.36' right of the centerline of S.R. 43 (Gougler Avenue);
4. Thence along the arc of a curve to the left, said curve having a delta of 20° 02' 07", a radius of 92.00', a tangent of 16.25' and a chord of 32.01' with a chord bearing of South 18° 30' 32" West, an **arc distance of 32.17'** to the southerly property line of said Kent D.C.U.R.C. at Station 630+91.37, 143.46' right of the centerline of right-of-way of S.R. 43 (Gougler Avenue);
5. Thence **North 86° 42' 48" West 34.39'** along the southerly property line of said Kent D.C.U.R.C. parcel to Station 630+91.04, 109.07' right of the centerline of S.R. 43 (Gougler Avenue);
6. Thence **North 09° 17' 51" West 155.90'** through said Kent D.C.U.R.C. parcel to Station 632+29.68, 88.08' right of the centerline of S.R. 43 (Gougler Avenue);
7. Thence **North 00° 44' 13" East 38.62'** through said Kent D.C.U.R.C. parcel to the TRUE

EXHIBIT A

RX 287
Rev. 09/06

Page 2 of 2
PID 18466
PARCEL 84-TV
CTY-RTE-SEC POR-CRAIN_AVENUE
Version Date 10/25/07

PLACE OF BEGINNING.

The above described parcel contains 5709 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 3696 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Number 170253000002, 1014 square feet of land of which is contained within Permanent Parcel Number 170253000003, and 999 square feet of land of which is contained within Permanent Parcel Number 170253000004 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 does not interfere with nor impair the exercise of the easement herein granted.

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.

Grantor claims title by instrument(s) of record in Instrument Number 200337512 of the records of Portage County.

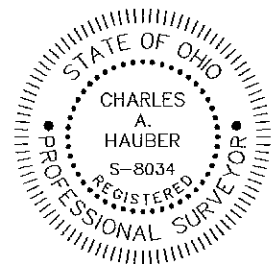
The stations referred to herein are from the centerline of right-of-way of S.R. 43 (Gougler Avenue) as found on the City of Kent Right-of-Way Plan POR-CRAIN AVENUE.

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.



STANDARD HIGHWAY EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS THAT: Kent Downtown Community Urban Redevelopment Corporation, the Grantor(s) herein, in consideration of the sum of \$16,824.00, 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): 84 SHV
POR-Crain Avenue

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Prior Instrument Reference: Instr. #200337512, Instr.#200309814, Warranty Deed Official Records
Volume 488 Page 165 & Warranty Deed Official Records Volume 56 Page 995 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 Kent Downtown Community Urban Redevelopmemnt Corporation has caused its name to be subscribed by Howard Boyle, its duly authorized agent on the 14th day of March, 2007.

KENT DOWNTOWN COMMUNITY URBAN REDEVELOPMEMNT CORPORATION

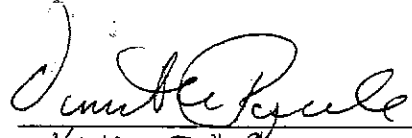


By: Howard Boyle, President

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the 14th day of March, 2007, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Howard Boyle, who acknowledged being the President, and duly authorized agent of Kent Downtown Community Urban Redevelopmemnt Corporation, 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

RX 271
Rev. 09/06

PID
PARCEL
CTY-RTE-SEC
Version Date

Page 1 of 2
18466
84-SHV
POR-CRAIN_AVENUE
12/01/06

**PARCEL 84-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 148.98'** 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 Kent Downtown Community Urban Redevelopment Corporation (Grantor) recorded in Instrument Number 200337512, at Station 632+68.09, 30.00' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence **North 84° 31' 10" East 85.53'** along the northerly property line of said Kent D.C.U.R.C. parcel to Station 632+68.08, 115.53' right of the centerline of right-of-way of said S.R. 43 (Gougler Avenue);

Thence **South 34° 34' 54" East 1.97'** along the easterly property line of said Kent D.C.U.R.C. parcel to the intersection with the westerly line of the proposed Public Access easement at Station 632+66.36, 116.49' 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 34° 34' 54" East 43.06'** continuing along the easterly property line of said Kent D.C.U.R.C. parcel to Station 632+28.74, 137.43' right of the centerline of S.R. 43 (Gougler Avenue);
2. Thence **South 07° 09' 52" East 161.42'** continuing along the easterly property line of said Kent D.C.U.R.C. parcel to the southerly property line at Station 630+91.46, 153.29' right of the centerline of S.R. 43 (Gougler Avenue);

EXHIBIT A

3. Thence **North 86° 42' 48" West 9.84'** along the southerly property line of said Kent D.C.U.R.C. parcel to the westerly line of the proposed Public Access easement parallel with and 12.00' left of the Bike Path centerline, at Station 630+91.37, 143.46' right of the centerline of S.R. 43 (Gougler Avenue);
4. Thence along the arc of a curve to the right, said curve having a delta of 20° 02' 07", a radius of 92.00', a tangent of 16.25' and a chord of 32.01' with a chord bearing of North 18° 30' 32" East, an **arc distance of 32.17'** to a point of tangency, said point being at Station 631+20.64, 131.36' right of the centerline of right-of-way of S.R. 43 (Gougler Avenue);
5. Thence **North 08° 29' 28" West 166.52'** through said Kent D.C.U.R.C. parcel to the northerly property line of said parcel to the TRUE PLACE OF BEGINNING.

The above described parcel contains 3042 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 1979 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Number 170253000002, 595 square feet of land of which is contained within Permanent Parcel Number 170253000003, and 468 square feet of land of which is contained within Permanent Parcel Number 170253000004 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 does not interfere with nor impair the exercise of the easement herein granted.

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.

Grantor claims title by instrument(s) of record in Instrument Number 200337512 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.

