

ORDINANCE NO. 2008- 96

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 5,561 SQUARE FEET OF REAL PROPERTY FROM ANN M. BAUER, 535 NORTH WATER STREET, FOR \$7,250.00 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 5,561 square feet of real property from Ann M. Bauer, 535 North Water Street in Kent/Franklin Township, Portage County, Ohio; and

WHEREAS, Ann M. Bauer is willing to grant the temporary easement in said property for \$7,250.00; 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 5,561 square feet from Ann M. Bauer, 535 North Water Street for \$7,250.00 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: 6-18-08
DATE

MAYOR AND PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2008- 96 was duly enacted this 18 day of June, 2008 by the Council of the City of Kent, Ohio.

Linda M. Copley, Clerk of Council

EXHIBIT A

RX 286
Rev. 09/06

PID 18466
PARCEL 55-T
CTY-RTE-SEC POR-CRAIN_AVENUE
Version Date 12/01/06

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**PARCEL 55-T
POR-CRAIN AVENUE
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
REMOVE TREE, LANDSCAPE ROCKS, RETAINING WALL, RECONSTRUCT RETAINING
WALL, DRIVES, STEPS AND COMPLETE GRADING
FOR APPROXIMATELY 24 MONTHS FROM DATE OF ENTRY BY THE
STATE OF OHIO, DEPARTMENT OF TRANSPORTATION**

[Surveyor's description of the premises follows]

Situated in the City of Kent, County of Portage and State of Ohio, being part of Lot 31 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 N. Water Street (80 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 3/8" iron pin in a monument box found at the intersection of the westerly line of Original Lot 31 and the centerline of right-of-way of Lake Street (60 feet) at Station 60+27.16 on the centerline of right-of-way of Lake Street, also being Station 60+58.51, 10.00' left of the centerline of right-of-way of N. Water Street;

Thence **South 00° 13' 42" East 226.25'** along the westerly line of Original Lot 31, parallel with and 10.00' from the centerline of right-of-way of N. Water Street (passing over a bolt found 8.25' from said 3/8" iron pin) to Station 58+32.26, 10.00' left of the centerline of right-of-way of said N. Water Street;

Thence **North 89° 46' 18" East 50.00'** perpendicular from the centerline of right-of-way line of N. Water Street, passing over said centerline at a distance of 10.00', to the northwest corner of a parcel of land now or formerly owned by Cho-Oyu, Ltd., a Limited Liability Company (Grantor) recorded in Instrument Number 200502063, at Station 58+32.26, 40.00' right of the centerline of right-of-way of said N. Water Street, witnessing a 5/8" iron pin found at Station 58+32.04, 39.10' right of the centerline of right-of-way of said N. Water Street; also being the TRUE PLACE OF BEGINNING of the temporary easement herein described:

1. Thence **South 87° 28' 36" East 38.04'** along the northerly property line of said Cho-Oyu parcel to Station 58+30.44, 78.00' right of the centerline of N. Water Street;
2. Thence **South 19° 01' 22" West 36.58'** through said Cho-Oyu parcel to Station 57+95.91, 65.94' right of the centerline of N. Water Street;
3. Thence **South 00° 23' 22" West 4.00'** through said Cho-Oyu parcel to Station 57+91.90, 65.90' right of the centerline of N. Water Street;
4. Thence **South 75° 01' 43" East 7.41'** through said Cho-Oyu parcel to Station 57+89.96, 73.05' right of the centerline of N. Water Street;
5. Thence **South 88° 31' 18" East 9.96'** through said Cho-Oyu parcel to Station 57+89.67, 83.00' right of the centerline of N. Water Street;
6. Thence **South 00° 13' 42" East 36.05'** through said Cho-Oyu parcel to Station 57+53.61, 83.00' right of the centerline of N. Water Street;
7. Thence **North 89° 34' 15" West 10.15'** through said Cho-Oyu parcel to Station 57+53.73, 72.85' right of the centerline of N. Water Street;
8. Thence **South 23° 40' 51" West 17.51'** through said Cho-Oyu parcel to Station 57+37.72, 65.76' right of the centerline of N. Water Street;
9. Thence **South 01° 30' 06" East 5.09'** through said Cho-Oyu parcel to Station 57+32.64, 65.87'

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- right of the centerline of N. Water Street;
- 10. Thence **South 26° 30' 15" East 35.51'** through said Cho-Oyu parcel to Station 57+00.80, 81.59' right of the centerline of N. Water Street;
- 11. Thence **South 16° 32' 33" West 28.75'** through said Cho-Oyu parcel to the southerly property line of said parcel at Station 56+73.27, 73.29' right of the centerline of N. Water Street;
- 12. Thence **South 89° 46' 18" West 33.29'** along the southerly property line of said Cho-Oyu parcel to the easterly right-of-way line of N. Water Street to Station 56+73.27, 40.00' right of the centerline of N. Water Street, witness a 1/2" iron pipe found at Station 56+73.27, 39.97' right of the centerline of N. Water Street;
- 13. Thence **North 00° 13' 42" West 159.00'** along the easterly right-of-way line of N. Water Street to the TRUE PLACE OF BEGINNING.

The above described parcel contains 5561 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 2059 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Number 170312200212 and 3502 square feet of land of which is contained within Permanent Parcel Number 170312200213 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.

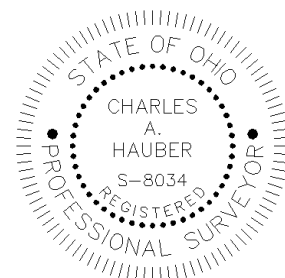
The stations referred to herein are from the centerlines of right-of-way of N. Water Street and Lake Street as found on the City of Kent Right-of-Way Plan POR-CRAIN AVENUE.

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 5561 square feet, more or less.

Grantor claims title by instrument(s) of record in Instrument Number 200502063 of the records of Portage County.

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



TEMPORARY RIGHT OF WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS TEAT: Ann Marie Bauer, married, the Grantor(s) herein, in consideration of the sum of \$7,250.00, to be paid by the State of Ohio, Department of Transportation, **in** the name of and for the use of The Ohio Department of Transportation, the Grantee herein, does **hereby** grant, bargain, sell, *convey* and release to said Grantee, its successors and assigns, a temporary easement to exclusively occupy and use for the purposes mentioned in Exhibit " A " the following described real estate:

PARCEL(S): 55 T
POR-CRAW AVENUE


SEE EXHIBIT " A " ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Prior Instrument Reference: Instr #200722602, 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.

And, for the consideration hereinabove written, Caven S. McLoughlin, the spouse of Ann Marie Bauer, hereby relinquishes to said Grantee, its successors and assigns, all rights and expectancies of Dower in the above described premises.

IN WITNESS WHEREOF ANN MARIE BAUER and Caven S. McLoughlin have hereunto set their hands on the 25th day of April, 2008.



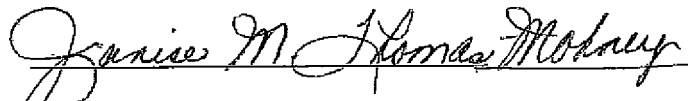
Ann Marie Bauer

Caven S. McLoughlin

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the 25th _____ day of ___ April, 2008 before me the subscriber, a Notary Public in and for said state and county, personally came the above named Ann Marie Bauer and Caven S. McLoughlin, who signed or acknowledged the signing of the foregoing instrument to be their voluntary acts *and* deeds.

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



NOTARY PUBLIC
My Commission expires: Oct 30th 2011

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Ann Marie Bauer

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