

ORDINANCE NO. 2008- 94

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 1,520 SQUARE FEET OF REAL PROPERTY FROM H.W. FAIRWAY INTERNATIONAL, INC., 716 NORTH MANTUA STREET, FOR \$3,175.00 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 1,520 square feet of real property from H.W. Fairway International, Inc., 716 North Mantua Street in Kent/Franklin Township, Portage County, Ohio; and

WHEREAS, H.W. Fairway International, Inc. is willing to grant the temporary easement in said property for \$3,175.00; 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 1,520 square feet from H.W. Fairway International, Inc., 716 North Mantua Street for \$3,175.00 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: 6/18/2008
DATE

MAYOR AND PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2008- 94 ____ was duly enacted this 18 day of June , 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: H.W. Fairway International, Inc., the Grantor(s) herein, in consideration of the sum of \$3,175.00, 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): 31T
POR-Crain Avenue

SEE EXHIBIT " A " ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Prior Instrument Reference: Warranty Deed Volume 471, Page 223, 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 H.W. Fairway International, Inc., has caused its name to be subscribed by

Lee J. Strange, its duly authorized agent on the _____ 4th __ day of

April _____, 2008

H.W. Fairway International, Inc.

By: Lee J. Strange Pres.

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the__ 4th day of April, 2008, before me the subscriber, a Notary Public in and for said state and county, personally came the above named

Lee J. Strange., who acknowledged being the

President _____, and duly authorized agent of H.W. Fairway International, Inc., 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.

Alice J. Kender

NOTARY PUBLIC

My Commission expires: !O --27- 2008 - \$

EXHIBIT A

RX 286
Rev. 09/06

Page 1 of 2
PID 18466
PARCEL 31-T
CTY-RTE-SEC POR-CRAIN_AVENUE
Version Date 12/01/06

**PARCEL 31-T
POR-CRAIN AVENUE
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
REMOVE LANDSCAPING AND 45' OF FENCE AND TO 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 30 of Original Franklin Township, T-3-N, R-9-W, being a parcel of land lying on the left side of the centerline of right-of-way of S.R. 43 (N. Mantua Street) (66 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 S.R. 43 (N. Mantua Street) (66 feet) and the centerline of right-of-way of S.R. 43 (Gougler Avenue) (60 feet), said monument box at Station 636+07.11, on the centerline of right-of-way of S.R. 43 (N. Mantua Street);

Thence **North 21° 39' 39" East 362.75'** along the centerline of right-of-way of S.R. 43 (N. Mantua Street) to Station 639+69.86 on said centerline;

Thence **North 68° 20' 21" West 33.00'** perpendicular from the centerline of right-of-way of S.R. 43 (N. Mantua Street) to the southeast corner of a parcel of land now or formerly owned by H.W. Fairway International, Inc. (Grantors) recorded in Volume 471, Page 223, at Station 639+69.86, 33.00' left of the centerline of right-of-way of S.R. 43 (N. Mantua Street); also being the TRUE PLACE OF BEGINNING of the temporary easement herein described:

1. Thence **North 68° 20' 21" West 10.00'** continuing along the southerly property line of said H.W. Fairway International, Inc. parcel to Station 639+69.86, 43.00' left of the centerline of right-of-way of S.R. 43 (N. Mantua Street);
2. Thence **North 21° 39' 39" East 152.02'** through said H.W. Fairway International, Inc. parcel to the northerly property line of said parcel, also being the southerly right-of-way line of Cuyahoga Street (60 feet), to Station 641+21.88, 43.00' left of the centerline of right-of-way of S.R. 43 (N. Mantua Street);
3. Thence **South 68° 27' 28" East 10.00'** along the southerly right-of-way line of Cuyahoga Street to the intersection of said southerly right-of-way line and the westerly right-of-way line of S.R. 43 (N. Mantua Street) to Station 641+21.90, 33.00' left of the centerline of right-of-way of S.R. 43 (N. Mantua Street);
4. Thence **South 21° 39' 39" West 152.04'** along the westerly right-of-way line of S.R. 43 (N. Mantua Street) to the TRUE PLACE OF BEGINNING.

The above described parcel contains 1520 square feet of land, which includes 0 square feet in the present road occupied, resulting in a net take of 555 square feet of land of which is contained within Portage County Auditor's Permanent Parcel Numbers 170302000175, 522 square feet of land of which is contained within the Permanent Parcel Number 170302000176 and 443 square feet of land of which is contained within the Permanent Parcel Number 170302000177 and subject to all legal highways and easements of record.

EXHIBIT A

RX 286
Rev. 09/06

PID	18466
PARCEL	31-T
CTY-RTE-SEC	POR-CRAIN_AVENUE
Version Date	12/01/06

Page 2 of 2

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.

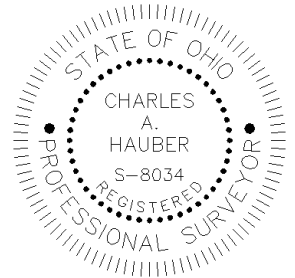
The stations referred to herein are from the centerline of right-of-way of S.R. 43 (N. Mantua Street) as found on the City of Kent Right-of-Way Plan POR-CRAIN AVENUE.

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 1520 square feet, more or less.

Grantor claims title by instrument(s) of record in Volume 471, Page 223 and Volume 1102, Page 921 of the records of Portage County.

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



PARCEL Error! Reference source not found.Error!
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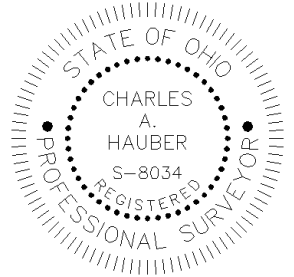
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IN WITNESS WHEREOF H.W. Fairway International, Inc., has caused its name to be subscribed by Lee

J. Strange, its duly authorized agent on the _____ 4th __ day of

April _____, 2008

H.W. Fairway International, Inc.

By: Lee V. Strange Pres.

STATE OF OHIO, COUNTY OF PORTAGE ss:

BE IT REMEMBERED, that on the __ 4th day of April, 2008, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Lee

J. Strange., who acknowledged being the

President _____, and duly authorized agent of H.W. Fairway International, Inc., 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.

Alice J. Kender

NOTARY PUBLIC

My Commission expires: 10 --27- 2008 -

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