AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ACCEPT 5.1928 ACRES OF LAND AND A DIRECTOR’S DEED FROM THE STATE OF OHIO FOR PURPOSE OF CONTROLLING A SECTION OF THE RIGHT-OF-WAY ON SR 59, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent wishes to accept 5.1928 acres of land and a Director’s Deed from the State of Ohio for the purpose of controlling a section of the right-of-way on SR 59; and

WHEREAS, this acceptance is needed to facilitate the redevelopment of downtown Kent, including the construction of the Kent Central Gateway, Portage Hike and Bike Trail connections, the Hotel/Conference Center, and the mixed use buildings that are proposed.

WHEREAS, time is of the essence in order to meet the deadlines for the proposed redevelopment.

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

SECTION 1. That Council does hereby authorize the City Manager, or his designee, to accept 5.1928 acres of land and a Director’s Deed, in substantial compliance with Exhibit “A”, attached hereto, with the State of Ohio, for the purpose of controlling a section of the right-of-way on SR 59.

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: 04/20/2011

DATE__MAYOR AND PRESIDENT OF COUNCIL

ATTEST:_____________________________

CLERK OF COUNCIL

I hereby certify that Ordinance No. 2011-___33___ was duly enacted this__20_______day of

_______April_______________, 2011, by the Council of the City of Kent, Ohio

_____________________________

CLERK OF COUNCIL
Directors's Deed

STATE OF OHIO
DEPARTMENT OF TRANSPORTATION

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, in connection with the construction of POR-59-0.80, a highway project declared a limited access highway by action of the Director of Highways, located in the City of Kent, Portage County, Ohio, and

WHEREAS, in addition to portions of the existing street right of way of South Water Street, E. College Avenue, S. Depeyster Street and Erie Street, the State of Ohio, (Ohio Department of Transportation) acquired the fee title with limited access of the following parcels:

SEE EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF

by Warranty Deed in the Township of Franklin, City of Kent, Portage County, Ohio as recorded in the Recorder's Office of Portage County, Ohio, and

WHEREAS, the limited access highway project has evolved into a barrier between the City of Kent and Kent State University, and

WHEREAS, the City of Kent, Portage County, Ohio (hereinafter “Grantee”), along with the Portage Area Rapid Transit Authority and Kent State University are redeveloping the area of Haymaker Parkway (State Route 59) from South Water Street to East Main Street with a multimodal transit facility and an esplanade pedestrian pathway linking the downtown area of Grantee with Kent State University; and
WHEREAS, because the redevelopment will not degrade the flow of vehicular traffic along said Haymaker Parkway/State Route 59, the Grantee has requested the Director of Transportation, State of Ohio, to transfer to the Grantee for its management, use and benefit the property described as Block "A" in Exhibit B attached hereto; and

WHEREAS, the Director of Transportation, State of Ohio, has determined that Grantee is a state institution, agency, commission, instrumentality, political subdivision, or taxing district of the state, or an institution receiving financial assistance from the state, and therefore eligible under Section 5501.45 of the Ohio Revised Code to have the property hereinafter described conveyed to Grantee upon such consideration as may be determined by the Director of Transportation, State of Ohio, to be fair and reasonable, without competitive bidding; and

WHEREAS, the Director of Transportation, State of Ohio has determined that those parcels listed in Exhibit A and existing right of ways are needed for highway or recreation purposes, but can be used for other purposes without affecting the integrity of the state’s highway system; the descriptions of said portions of those parcels have been combined into a single parcel designated, and referred to herein, as Block “A”, containing 5.1928 acres.

NOW THEREFORE, the State of Ohio, by Jerry Wray, Director of Transportation, pursuant to the statutory provisions of Section 5501.45 of the Ohio Revised Code, for and in consideration of Grantee, its successors and assigns does hereby release and forever Quitclaim unto the City of Kent, its successors and assigns forever, all rights, titles and interests the State of Ohio may have in and over the following described real estate, including the control of any and all rights of access to and from the property conveyed herein, to wit:

BLOCK “A”
5.1928 ACRES

SEE EXHIBIT B ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF

Provided, however, the foregoing conveyance is specifically conditioned upon and subject to the following rights of reversion hereby reserved by Grantor:

Page 2 of 5
Not including Exhibit A or Exhibit B
A. Compliance with Applicable Federal and State Laws When Granting Access Rights For Private Use

If Grantee should ever grant access to and from the premises herein granted for any private use, then said grant of access for a private use shall comply with any and all applicable federal and state statutes, rules and regulations governing the disposal of property, as the same may be amended from time to time, including but not limited to 23 CFR 710, Subpart D of the United States Code of Federal Regulations; and, any failure to comply in any manner whatsoever with any of the then applicable federal and state statutes, rules and regulations governing the disposal of property shall cause Grantee to be divested forthwith of any and all rights, titles and interests conveyed herein, and the same shall revert immediately to Grantor.

B. Non-impairment of State Route 59 and/or State's Highway System

If Grantee, or its successors and assigns, without the express, prior written consent Grantor, should ever use the premises herein granted in such a manner that impairs the integrity of State Route 59 and/or the state’s highway system, then and in that event the Grantee shall be divested forthwith of any and all rights, titles and interests conveyed herein, and the same shall revert immediately to Grantor.

C. Title VI Compliance

By accepting the within conveyance, City of Kent, Portage County, Ohio for itself, and its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that:

(1) No person on the grounds of race, color, national origin, sex, age, or disability shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of the above described property.

(2) In the construction of any improvements on, over, or under the above described property and the furnishing of services thereon, no person on the grounds of race, color, national origin, sex, age, or disability shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination.
(3) The above described property shall be used in a manner that at all times is in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. DOT - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(4) In the event that this instrument grants a lease, license, or permit and any of the above nondiscrimination covenants is breached, then the State of Ohio, Department of Transportation, shall have the unfettered right to terminate the lease, license or permit and to re-enter and repossess the above-described property and hold the same as if said lease, license or permit had never been made or issued.

(5) In the event that this instrument grants a fee or easement interest and any of the above nondiscrimination covenants is breached, the State of Ohio, Department of Transportation, shall have the unfettered right to re-enter the above described property, and said property will thereupon revert to and vest in and become the absolute property of the State of Ohio and its successors and assigns for the use and benefit of the Department of Transportation.

(6) In the event that this instrument grants a lease, fee or easement interest, all of the foregoing nondiscrimination covenants shall be and are covenants running with the land.

REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY
IN TESTIMONY WHEREOF, I, Jerry Wray, Director of Transportation, State of Ohio, pursuant to the provisions of Section 5501.45 of the Ohio Revised Code, for and in the name of the State of Ohio, have signed this instrument at Columbus, Ohio, and have affixed the Seal of the Department of Transportation on this the ___ day of __________, 2011.

STATE OF OHIO
DEPARTMENT OF TRANSPORTATION

Jerry Wray, Director
By: Anthony M. Urankar, Deputy District Director
District 4, Ohio Department of Transportation

STATE OF OHIO
COUNTY OF SUMMIT

BE IT REMEMBERED, that on this ______ day of _______________, 2011, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Anthony M. Urankar, Deputy District Director, District 4, Ohio Department of Transportation, who signed or acknowledged the signing of the foregoing instrument to be the voluntary act and deed of the State of Ohio, Department of Transportation.

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: ____________

This document was prepared by or for the State of Ohio, Department of Transportation, on forms approved by the Attorney General of Ohio.

Page 5 of 5
Not including Exhibit A or Exhibit B
EXHIBIT "A"

Florence Graven, Et Al 85WL V871, P488
City of Kent 86A-WL V911, P840
Robert G. Wilbur, Et Al 87WL V927, P128
John T. Siebenaler and Evelyn L. Siebenaler 88WL V856, P230
Chas. H. Buckalew and Dolores C. Buckalew 89WL V851, P215
Boyd Harter and Esther Harter 90WL V866, P31
Earl L. Stewart 91WL V882, P12
Comelia Dotwiler 92WL V883, P380
Mae A. Simones 93WL V849, P194
Gilbert R. Bauer and Rhea Bauer 94WL V849, P357
Robert L. Sisson and Jean Sisson 95WL V897, P1187
Walter Beuck aka Walter John Beuck;
Dorothy Marie Cherry aka Dorothy Cherry;
Wilford E. Beuck aka Wilford Beuck;
Gilbert E. Beuck aka Gilbert Beuck;
Ralph Francis Beuck aka Ralph Beuck;
Robert T. Beuck aka Robert Beuck 95WL V898, P497
Robert M. Stevenson, Et Al. 97WL V890, P119
Verna Maurer 97A-LA V893, P201
Anna L. Hall 98WL V850, P46
John Beuck aka Walter Beuck; Dorothy Marie Cherry aka Dorothy Cherry;
Wilford E. Beuck aka Wilford Beuck;
Gilbert E. Beuck aka Gilbert Beuck;
Francis Beuck aka Ralph Beuck;
Robert T. Beuck aka Robert Beuck 99WL V898, P494
Elizabeth Stimpert 100WL V886, P518
Pierre Dubois 101WL V912, P389
Rosario Sidoti, Et Al. 102WL V902, P337
John Novisky and Mary P. Novisky 103WL V889, P1116
Stella Burt, Life Estate and
Phyllis Schram 104WL V888, P472
Stella Burt, Life Estate and
Phyllis Schram 104AWL V888, P470
Jean A. Huffman 105WL V870, P481
Stephen E. Hughes and Edward
B. Hughes 106WL V892, P973
Zeta Lambda of Sigma Chi House
Corporation, Et Al. 107WL V911, P538
<table>
<thead>
<tr>
<th>Name</th>
<th>Page</th>
<th>Volume</th>
<th>Page in Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phoebe R. Schmidt aka Phoebe R. K.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schmidt aka Phoebe Schmidt</td>
<td>108WL</td>
<td></td>
<td>V904, P356</td>
</tr>
<tr>
<td>Harold H. Allison and Martha B. Allison</td>
<td>109WL</td>
<td></td>
<td>V849, P120</td>
</tr>
<tr>
<td>Ray O. Gooch and Ruth E. Gooch</td>
<td>110WL</td>
<td></td>
<td>V851, P202</td>
</tr>
<tr>
<td>Zeta Housing Committee, Inc., Et Al.</td>
<td>111WL</td>
<td></td>
<td>V911, P684</td>
</tr>
<tr>
<td>D.U.-K.M.K.</td>
<td>112WL</td>
<td></td>
<td>V902, P254</td>
</tr>
<tr>
<td>Elizabeth Martha Rankin</td>
<td>113WL</td>
<td></td>
<td>V910, P907</td>
</tr>
<tr>
<td>William J. Smith, Etal</td>
<td>114WL</td>
<td></td>
<td>V889, P117</td>
</tr>
<tr>
<td>Donald L. Palmer, Et Al.</td>
<td>116WL</td>
<td></td>
<td>V864, P132</td>
</tr>
<tr>
<td>Bruno S. Romeo and Dorothy Romeo</td>
<td>117WL</td>
<td></td>
<td>V866, P23</td>
</tr>
<tr>
<td>James P. Villella and Grace Villella</td>
<td>118WL</td>
<td></td>
<td>V672, P404</td>
</tr>
<tr>
<td>Nelson S. Beal</td>
<td>119WL</td>
<td></td>
<td>V877, P255</td>
</tr>
</tbody>
</table>
CONSOLIDATION PLAT OF PART OF THE HAYMAKER PARKWAY RIGHT-OF-WAY (POR-59-0.80)  
CENTERLINE PLAT ORIGINALLY RECORDED IN PLAT BOOK 19 PAGE 45  
SITUATED IN THE CITY OF KENT, COUNTY OF PORTAGE AND STATE OF OHIO, BEING PART OF ORIGINAL FRANKLIN TOWNSHIP LOT 24

SURVEYOR’S CERTIFICATE
Dimensions on this plat are expressed in feet and decimal parts thereof and unless otherwise noted. Bearings are referred to grid north HAD93, and are used to indicate angles. Monuments were found or set at all points included herein. This plat was made in accordance with the minimum standards for boundary surveys in the State of Ohio (which is fixed pursuant to Chapter 119 of the Ohio Revised Code).

DON TROCCHIO
Registered Surveyor No. 6445
DATE

Under the authority vested in them by section 7.23.03 et al of the Ohio Revised Code, the City Council of Kent, Ohio, does hereby accept all the lands in Block A as shown hereon. In accordance with ordinance no_______, passed by them this _______day of_______, 2011.

Linda Capley, Clerk of Council

APPROVED FOR TRANSFER THIS _______ DAY OF _____________, 2011.

JAMES BOWLING, PE
CITY OF KENT ENGINEER/DEPUTY SERVICE DIR.

APPROVED FOR TRANSFER THIS _______ DAY OF _____________, 2011.

ANTHONY M. URANKAR
DIVISION 4 DEPUTY DIRECTOR

COUNTY APPROVALS

Received for record this_______day of___________, 2011.

Assistant Tax Map Draftsman

Transferred this_______day of___________, 2011.

County Auditor

Received for record this_______day of___________, 2011.

County Recorder