ORDINANCE NO. 2017 - 113

AN ORDINANCE ACCEPTING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN AGREEMENT BETWEEN ROUTE 43 AND ROUTE 261, LLC, AN OHIO LIMITED LIABILITY COMPANY, AND THE CITY OF KENT, OHIO, WITH THE CITY OBTAINING A PERPETUAL EASEMENT FOR HIGHWAY PURPOSES OF 0.027 ACRES OF REAL PROPERTY, FOR $9,245.00 FOR RIGHT-OF-WAY PURPOSE, TO INSTALL, CONSTRUCT AND RECONSTRUCT THE ROADWAY AND SIDEWALKS FOR THE PROJECT POR-43-10.26 KNOWN AS SR 43 TRAFFIC IMPROVEMENT PROJECT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent Council desires to obtain a perpetual easement of 0.027 acres of real property from Route 43 and Route 261, LLC; and

WHEREAS, Route 43 and Route 261, LLC is willing to grant a perpetual easement in said property for $9,245.00; and

WHEREAS, the City needs the property for right-of-way purposes to install, construct and reconstruct the roadway and sidewalks for the project known as SR 43 Traffic Improvement 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 perpetual easement for highway purposes of 0.027 acres of real property for right-of-way purposes to install, construct and reconstruct the roadway and sidewalks for the project known as SR 43 Traffic Improvement Project from Route 43 and Route 261 for $9,245.00; said Agreement marked as Exhibit "A", on file in the Council office.

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: September 20, 2017
Date

JERRY T. FIALA
Mayor and President of Council

ATTEST: TARA GRIMM
TARA GRIMM, CMC
Clerk of Council

I, TARA GRIMM, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF ORDINANCE No. _______, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON __________, 20__________.

TARA GRIMM, CMC
CLERK OF COUNCIL
(SEAL)
EASEMENT

KNOW ALL MEN BY THESE PRESENTS THAT: Route 43 and Route 261 Plaza LLC, an Ohio limited liability company, the Grantor(s) herein, in consideration of the sum of $9,245.00, to be paid by the City of Kent, Portage County, Ohio, 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): 3-SH
POR-43-10.26

SEE EXHIBIT A ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF
Portage County Current Tax Parcel No. 17-006-00-00-001-000

And the said Grantor(s), for itself and its successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that it is the true and lawful owner(s) of said premises, and lawfully seized of the same in fee simple, and has 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.
The property conveyed herein is being acquired by Grantee for a public purpose, namely the establishment, construction, reconstruction, widening, repair or maintenance of a public road.

In the event that the Grantee decides not to use the property conveyed herein for the above-stated purpose, the Grantor(s) has a right under Section 163.211 of the Revised Code to repurchase the property for its fair market value as determined by an independent appraisal made by an appraiser chosen by agreement of the parties or, if the parties cannot agree, an appraiser chosen by an appropriate court. However, this right to repurchase will be extinguished if any of the following occur: (A) Grantor(s) declines to repurchase the property; (B) Grantor(s) fails to repurchase the property within sixty days after Grantee offers the property for repurchase; (C) Grantee grants or transfers the property to any other person or agency; or (D) Five years have passed since the property was appropriated or acquired by Grantee.
IN WITNESS WHEREOF Route 43 and Route 261 Plaza LLC, an Ohio limited liability company has caused its name to be subscribed by Daniel R. Snyder, the President of Snyder-Kent LLC, an Ohio limited liability company, Sole Owner, and its duly authorized agent on the ____ day of ____ , 2017.

ROUTE 43 AND ROUTE 261 PLAZA LLC,
AN OHIO LIMITED LIABILITY COMPANY

BY: SNYDER-KENT LLC, AN OHIO LIMITED LIABILITY COMPANY

By: Daniel R. Snyder, President

STATE OF OHIO, COUNTY OF ALLEGHENY ss:

Be IT REMEMBERED, that on the ____ day of ____, 2017, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Daniel R. Snyder, who acknowledged being the President and duly authorized agent of Snyder-Kent LLC, an Ohio limited liability company, Sole Owner of Route 43 and Route 261 Plaza LLC, an Ohio limited liability company, and who acknowledged 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.

This document was prepared by: The City of Kent, Portage County, Ohio
EXHIBIT A

PARCEL 3-SH
POR-43-10.26
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, State of Ohio, being part of Lot 6 in Franklin Township, and being part of lands described in the deed to DEVILLE DEVELOPMENTS, LLC (Grantor) as recorded Instrument 201403270 on file in the Portage County Recorder’s office and laying on the left side of the existing centerline of right-of-way of State Route 43 as recorded as Plat ___________ and as shown on the POR-43-10.26 right-of-way plans prepared by Arcadis U.S., Inc. for the City of Kent, Ohio, and more fully described as follows:

Commencing at a 1 inch diameter pin found in a monument box at the intersection of the centerline of right of way of State Route 261 and the centerline of right of way of State Route 43 as shown on said Plat and on said right-of-way plans being Station 540+06.62; said pin being North 25° 55' 21" West, a distance of 696.12 feet from a 1 inch diameter pin found in a monument box found on the centerline of right of way of State Route 43;

Thence North 25° 59' 25" West, along the centerline of right of way of said State Route 43, a distance of 377.64 feet to the Brimfield Township Lot 4 and Franklin Township Lot 6 line being Station 543+84.07;

Thence North 18° 15' 11" West, continuing along said centerline of right of way, a distance of 139.35 feet to the northeasterly corner of lands described in the deed to GOOSE 2.5, LP as recorded in Instrument 201514092 on file in the Portage County Recorder’s office and to the Grantor’s southeasterly corner being Station 545+23.42;
Thence South 89° 46' 49" West, leaving said centerline of right of way and along said GOOSE 2.5, LP's northerly line and along the Grantor's southerly line, a distance of 47.32 feet to the existing westerly standard highway easement line of State Route 43 being 45.00 feet left of Station 545+38.07 being the **Point of Beginning** for the parcel described herein;

1. **Thence South 89° 46' 49" West**, continuing along said GOOSE 2.5, LP's northerly line and continuing along the Grantor's southerly line, a distance of 15.77 feet being 60.00 feet left of Station 545+42.95;

2. **Thence North 18° 15' 11" West**, leaving said GOOSE 2.5, LP's northerly line and leaving the Grantor's southerly line and through the Grantor, a distance of 75.00 feet being 60.00 feet left of Station 546+17.95;

3. **Thence North 71° 44' 49" East**, continuing through the Grantor, a distance of 15.00 feet to said existing westerly standard highway easement line being 45.00 feet left of Station 546+17.95;

4. **Thence South 18° 15' 11" East**, along said existing westerly standard highway easement line, a distance of 79.88 feet to the **Point of Beginning**.

The above described parcel contains 0.027 acres (1,162 square feet, including 0.000 acres within the present road occupied), within Parcel Number 17-006-00-00-001-000 and subject to all legal highways and easements of record.

This description was prepared by Arcadis U.S., Inc. under the supervision of Robert G. Hoy, Ohio Professional Surveyor No. 8142, and is based on a field survey performed by Arcadis U.S., Inc. in September 2014 under the direction of Robert G. Hoy, Ohio Professional Surveyor No. 8142;

Bearings in this description are based on the Ohio State Plane Coordinate System, NAD83(2011), North Zone, Grid North;

Grantor claims title as recorded in Instrument 201403270 of Portage County Deed Records.
EXHIBIT A

LPA RX 871 SH

The stations referred are from the existing centerline of right-of-way of State Route 43 as shown on the POR-43-10.26 right-of-way plans unless noted otherwise.

\[signature\]
Arcadis U.S., Inc.  Date
Robert G. Hoy, Ohio Professional Surveyor No. 8142

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