RESOLUTION NO. 2018-67

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A LICENSE AGREEMENT BETWEEN THE CITY OF KENT AND THE CITY OF AKRON TO ALLOW THE CITY OF KENT TO CONSTRUCT A TEN FOOT (10') WIDE BICYCLE TRAIL, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent desires to enter into a License Agreement with the City of Akron to construct a ten foot (10') wide bicycle trail; and

WHEREAS, it will permit the City of Kent to construct a short shared use path connection from Lower Drive to Akron Boulevard across Akron’s Water Main Easement; and

WHEREAS, the connection will shorten access by as much as 0.6 miles for over fifty (50) homes in Kent to the Portage Bike and Hike Trail and Freedom Trail.

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 enter into a License Agreement between the City of Kent and the City of Akron to allow the City of Kent to construct a ten foot (10') wide bicycle trail, and is more fully described in Exhibit “A” 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 Resolution 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 Resolution 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 Resolution is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: May 11, 2018

Date

Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: May 11, 2018

Date

ATTEST: Tara Grimm, CMC
Clerk of Council


(SEAL)

TARA GRIMM, CMC
CLERK OF COUNCIL
LICENSE AGREEMENT
FOR WATER FORCE MAIN CROSSING

KNOW BY ALL MEN THESE PRESENTS, that the City of Akron, Ohio, a charter municipal corporation, hereinafter called the GRANTOR, 166 South High Street, Akron, Ohio 44308, for the consideration of One Dollar ($1.00) and other good and valuable consideration, does hereby grant the City of Kent, Ohio, a charter municipal corporation, hereinafter called the GRANTEE, 930 Overholt Road, Kent, Ohio 44240 a LICENSE and right-of-way on, over, and through a certain parcel of land owned by the GRANTOR and further described on Exhibit A, hereinafter called the PREMISES:

GRANTEE will construct, pave, repair, and maintain a 10-foot wide bicycle trail, consisting of approximately five inches of asphaltic concrete over five inches of crushed stone, with bollards, between Lower Drive and Akron Boulevard within Parcel 17-009-00-00-039-000, owned by GRANTEE, crossing one of the GRANTEE’s 48” diameter water force mains, over a portion of the PREMISES as shown in Exhibit B, hereinafter called the BIKE TRAIL. The crossing is located approximately 950 feet south of Monroe Falls Kent Road along Akron Boulevard.

The GRANTOR hereby grants unto the GRANTEE the right to construct, repair, and maintain the bicycle trail described above, hereinafter the PROJECT, on the PREMISES. The GRANTEE shall only be entitled to access the PREMISES not consisting of the BIKE TRAIL for the purposes of installation, maintenance and repair of the BIKE TRAIL.

As condition of this LICENSE, the GRANTEE covenants and agrees with the GRANTOR, as follows:

GRANTEE shall pay any and all costs, damages, fines and expenses in connection with the construction and maintenance of the PROJECT. After receiving the written approval of the GRANTOR, GRANTEE may install the PROJECT.

GRANTEE shall perform any other construction or services required by GRANTOR in connection with protecting the water supply of the GRANTOR whether in connection with initial installation of the PROJECT or in the use and repair thereof. GRANTEE shall pay all costs incurred by GRANTOR if GRANTOR either constructs, or in performance of maintenance, repairs, removes, upsizes, downsizes, or replaces its water mains as a result of GRANTEE’S activities under this LICENSE. Further, GRANTEE agrees that GRANTOR is not responsible for any business expense, or loss of business that may result from GRANTOR’S work on its water mains as a result of the PROJECT.

GRANTEE shall remove all debris resulting from installation, maintenance or repair of the PROJECT, clean up the PREMISES and leave the portion of the PREMISES not consisting of the BIKE TRAIL in the same condition it was before the installation of the PROJECT.
GRANTEE shall perform any other construction or services required by
GRANTOR whether for initial installation of the PROJECT or for the maintenance and
repair thereof.

GRANTEE shall carry the following minimum amounts of insurance during the
term of this LICENSE with the GRANTOR, its agents, employees, and representatives
named as additional insured’s covering the GRANTEE, its agents, employees and
representatives for any and all claims, or liabilities for bodily injury including death or
property damage growing out of or in any way attributable to the construction, operation,
maintenance, replacement, repair, removal, or occupancy of said bicycle trail:
combined single limit bodily injury/property damage coverage in the amount of one
million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in the
aggregate. GRANTEE shall provide additional insured endorsements in a form
acceptable to GRANTOR.

GRANTOR reserves the right to require GRANTEE, on thirty (30) days written
notice, to relocate or remove the PROJECT at GRANTEE’s expense.

GRANTEE shall not use the PREMISES in any other manner or for any other
purpose other than the PROJECT, nor permit any other person, firm or corporation to
occupy the PREMISES or any part thereof. GRANTEE shall not in any event use or
permit the PREMISES to be used for any unlawful manner or for any illegal purpose or
in such manner as to constitute a nuisance.

Waiver of any breach of LICENSE shall not be construed to be a waiver of any
subsequent breach.

All notices required to be given to GRANTEE shall be made by certified mail
addressed to the Service Director, 930 Overholt Road, Kent, Ohio 44240, and notices to
GRANTOR shall be made by certified mail addressed to Superintendent, Water
Distribution Division, 1460 Trippel Boulevard, Akron, Ohio, 44306 with copies to the
Director of Public Service, 166 South High Street, Room 201, Akron, Ohio 44308 to the
Director of Law, 161 South High Street, Suite 202, Akron, Ohio 44308.

GRANTEE agrees to abide by all terms and provisions of Section 34.03 of the
Code of Ordinances of the City of Akron, Ohio regarding public contracts during the
terms of this License.

GRANTEE agrees to maintain and care for the Premises and agrees that it is
also responsible for the safety of the people being on the Premises and for maintaining
the Premises in a safe condition, and to pay for any and all utilities consumed in
connection with occupancy of the Premises.

GRANTEE shall not assign any of its rights under this LICENSE without the prior
written approval of the GRANTOR.
IN WITNESS WHEREOF, the parties have hereto set their hands and seals the day and year first above written.

CITY OF AKRON, OHIO

John O. Moore, Director
Department of Public Service

CITY OF KENT, OHIO

Melanie Baker, Service Director

Approved as to form and correctness:

Eve V. Belfance, Director of Law
City of Akron, Ohio

Approved as to form and correctness:

Hope Jones, Law Director
City of Kent, Ohio