

ORDINANCE NO. 2007- 91

**AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO AN AGREEMENT WITH ROBERT D. MORSON AND MONICA E. MORSON TO RECEIVE A HIKE AND BIKE TRAIL ACCESS EASEMENT IN EXCHANGE FOR A .0280 ACRE PARCEL OF REAL PROPERTY OWNED BY THE CITY OF KENT, OHIO.**

**WHEREAS**, the City of Kent is the owner of a .0280 acre parcel of land located in the City of Kent; and

**WHEREAS**, Robert D. Morson and Monica E. Morson would like to have said parcel to clean up a title defect; and

**WHEREAS**, the City would like a hike and bike trail access easement across property owned by Robert D. Morson and Monica E. Morson; and

**WHEREAS**, Robert D. Morson and Monica E. Morson are willing to give said easement to the City.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kent, Portage County, Ohio, at least two-thirds (2/3) of all members elected thereto concurring:

**SECTION 1.** That Council does hereby authorize the City Manager, or his designee, to enter into an agreement with Robert D. Morson and Monica E. Morson to exchange a .0280 acre parcel of real property owned by the City of Kent, Ohio, for a hike and bike trail access easement in substantial compliance with a copy of the Agreement which is attached hereto as Exhibit "A" 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 shall take effect and be in force from and after the earliest date allowed by law.

PASSED: 09/19/2007  
DATE

\_\_\_\_\_  
MAYOR AND PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_  
ACTING CLERK OF COUNCIL

I hereby certify that Ordinance No. 2007- 91 was duly enacted this 19 day of September, 2007, by the Council of the City of Kent, Ohio.

\_\_\_\_\_  
Acting Clerk of Council

# **EXHIBIT "A"**

## **AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2007 by and among ROBERT D. MORSON and MONICA E. MORSON, (hereinafter "Morson") and the CITY OF KENT, an Ohio municipal corporation (hereinafter "Kent").

### **WITNESSETH, that:**

WHEREAS, Kent is the owner of a 0.0280 acre parcel of land located in the City of Kent, Portage County, Ohio, as more particularly described in Exhibit "1" attached hereto and made a part hereof; and

WHEREAS, Morson intends to grant a hike and bike trail access easement to the City attached hereto and described in Exhibit "2"; and

WHEREAS the parties have agreed that the transfer of the parcel and the granting of the easement will benefit both parties; and

WHEREAS, the City wants to obtain the hike and bike trail access easement as described in Exhibit "2", attached hereto and made a part hereof; and

WHEREAS, Morson needs the parcel described in Exhibit "1", attached hereto and made a part hereof, to clear the title to their property; and

NOW THEREFORE, for and in consideration of the foregoing premises, and the mutual covenants and agreements hereinafter set forth, the parties, intending to be legally bound, do hereby agree as follows:

### **1. PROPERTY EXCHANGE**

**1.1 Transfer by Kent.** Subject to the terms and conditions of this Agreement, Kent agrees to convey and transfer to Morson by general warranty deed, and Morson agrees to accept from Kent, that certain real property described in Exhibit "1", attached hereto and by reference made a part hereof, together with all easements, rights, interests, title and appurtenances thereto belonging.

**1.2** Morson and Kent agree that if Kent fails to fully comply with Subsection 1.1 hereof, Morson shall have no obligation or duty to perform any of its obligations under this Agreement.

## 2. EASEMENTS

2.1 **Easement for Drainage.** Upon execution of this Agreement, Morson agrees to convey and transfer to Kent, and Kent agrees to accept from Morson, a hike and bike trail access easement over and across that certain real estate described more particularly in Exhibit "2" as attached hereto and by reference made a part hereof.

## 3. PRESENTATIONS AND WARRANTIES

3.1 **Kent.** Kent represents, warrants and agrees with Morson as follows:

- (a) The execution and delivery of this Agreement by Kent and the performance of the transactions herein contemplated by Kent have been duly authorized and approved by all necessary municipal authorities and will not violate the provisions of any regulation, ordinance or the decree or judgment of any court or governmental agency having jurisdiction over Kent.
- (b) There are no leases with respect to the occupancy of any of the property to be transferred by Kent hereunder.
- (c) There is no pending condemnation or similar proceeding affecting the property to be transferred by Kent hereunder or any portion thereof, and Kent has not received any written notice and has no knowledge that any such proceeding is contemplated.
- (d) To the best of Kent's knowledge, no hazardous substances have been disposed on the properties to be transferred by Kent hereunder, and such properties are in compliance with all applicable environmental laws.
- (e) There are no adverse parties in possession of the property other than Morson, to be transferred by Kent hereunder or of any part thereof and no parties in possession thereof except Kent and Morson and no party has been granted any license, lease, or other right relating to the use or possession of such property.
- (f) There are no contracts or other obligations outstanding for the sale, exchange or transfer of the property to be transferred by Kent hereunder or any portion thereof.

3.2 **Morson.** Morson represents, warrants and agrees with Kent as follows:

- (a) The execution and delivery of this Agreement by Morson and the performance of all transactions herein contemplated by Morson will not violate provisions of any regulation, ordinance or the decree or judgment of any court or governmental agency having jurisdiction over the property or Morson.

## 4. CLOSING

**4.1 Time and Place of Closing.** The closing of this Agreement shall take place at the offices of Approved Statewide Title Co., 320 E. Main Street, Plaza East, Ravenna, Ohio 44266, (330 297-5754), or at such other place and later date as the parties shall mutually agree, but in no event later than the 30th day of October, 2007.

**4.2 Documentation Prepared by Morson**

- (a) A General Warranty Deed to Parcel 1 as set forth in Subsection 1.1.
- (b) A grant of easement for stormwater as set forth in Subsection 2.
- (c) A consolidation transfer deed putting Morson's property in one legal description.

**4.3 Events of Closing.**

- (a) At the closing, Kent shall deliver to Morson the fully executed deed prepared pursuant to Subsection 1.1 and Morson shall deliver to Kent the fully executed easement over Parcel 2 prepared pursuant to Subsection 2.1. Morson shall convey the quit-claim consolidation deed to the title company for filing.
- (b) As soon as practicable thereafter the Closing, and in no event later than the next business date after the Closing, both parties shall file the aforementioned deed and easement for record in Portage County, Ohio.

**4.4 Costs of Closing.** Kent and Morson agree to each pay one-half (1/2) of the fees for the recording of deed and the easement and the amount of any transfer and conveyance fees. The parties agree to keep accurate records of these costs and to make settlement and payment thereof from time to time in accordance with this subsection.

**4.5 Proration of Real Estate Taxes.** Real estate taxes and assessments, both special and general, levied or assessed on all property transferred hereunder shall be prorated as of the date of transfer of each such property, based on the actual days involved. Such taxes and assessments shall be based upon the latest available tax bills. Any amounts determined to be owing under this subsection shall be payable within three (3) days of the transfer of such transfer.

**5. POSSESSION**

Possession of all properties and rights transferred hereunder shall be delivered to the respective parties on the date of transfer of each parcel.

**6. SURVIVAL OF REPRESENTATIONS AND WARRANTIES**



after the Closing any and all such further acts as may be reasonably necessary to consummate the transactions contemplated hereby.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first written above by those duly authorized.

**IN THE PRESENCE OF:**

**CITY OF KENT**

\_\_\_\_\_

By: \_\_\_\_\_  
David Ruller, City Manager

\_\_\_\_\_

By: \_\_\_\_\_  
Robert D. Morson

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Monica E. Morson

\_\_\_\_\_

\_\_\_\_\_

# **EXHIBIT 1**

## **0.0280 ACRES City of Kent to Morson**

Situated in the City of Kent, County of Portage, State of Ohio, being part of Lot 31 in said City and bounded and described as follows:

Beginning at a point in the east line of North Mantua Street, at the southwest corner of Sublot 4 in the E.J. Kline Allotment, as recorded in Vol. 5, Pg. 7 in the Portage County Record of Plats;

Thence S 21 deg. 51' 25" W along the east line of North Mantua Street a distance of 361.92 feet to a 1/2" iron rod found at the southwest corner of land now or formerly owned by K.H. & B.P. Bowers (Vol. 971 Pg. 191);

Thence S 68 deg. 12' 31" E along a south line of said Bowers passing over a 1/2" iron rod found at 130.38 feet a distance of 140.38 feet to a point in the west line of the Public Lands of Kent (Vol.23 Pgs. 58-64), which marks the true place of beginning for the following described parcel of land;

Thence S 22 deg. 47' 35" W a distance of 98.81 feet to a 3/4" iron pipe found at the northeast corner of land now or formerly owned by R.D. & M.E. Morson (Inst.2006-29536);

Thence N 67 deg. 00' 10" W along the north line of said Morson a distance of 24.70 feet to a 1/2" iron rod found at the southeast corner of land now or formerly owned by R.D. & M.E. Morson (Inst.2007-13271);

Thence N 36 deg. 50' 32" E a distance of 101.76 feet to the true place of beginning, containing 0.0280 acres of land, more or less, as surveyed and described July 16, 2007 by Rob A. Szuch Registered Professional Surveyor No. 7288.