ORDINANCE NO. 2013-139

AN ORDINANCE ACCEPTING WATER MAIN, SANITARY SEWER, ACCESS AND SHARED USE PATH EASEMENTS AND DEDICATED SPACES OF THE CROSINGS AT GOLDEN POND, SHAW DRIVE IMPROVEMENTS, AND DECLARING AN EMERGENCY.

WHEREAS, the Developer has substantially completed its portion of the Crossings at Golden Pond, Shaw Drive improvements; and

WHEREAS, the Developer has delivered to the City the necessary plat for the improvements, a copy of which is marked Exhibit "A" and placed on file with the Clerk of Council; and

WHEREAS, the City wishes to accept the water main, sanitary sewer, access and shared use path easements as shown on the attached exhibits, marked as Exhibits "B" and "C", and made a part hereof; and

WHEREAS, the Development Engineer for the City has given her opinion that the Crossings at Golden Pond, Shaw Drive improvements and easements for utilities and the shared use path should be accepted for dedication purposes; and

WHEREAS, in accordance with Section 1181.09(a) of the Codified Ordinances, a committee of Council has reviewed whether the requirements of the Regulations of the City have been met by the Developer for the subject phase of the improvements and has recommended to Council that the City accept the rights-of-way utility easements contained in the improvements to the Crossings at Golden Pond, Shaw Drive.

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 accept the water main, sanitary sewer, access and shared use path easements as the same is shown upon the copy of the dedication plat marked Exhibits "A", "B" and "C", attached hereto and incorporated herein.

SECTION 2. That Council does hereby direct the President and Clerk of Council to sign the original dedication plat, evidencing the dedication and approval as authorized herein.

SECTION 3. 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 4. 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:12/18/2013                                   MAYOR AND PRESIDENT OF COUNCIL

ATTEST:________________________________________

CLERK OF COUNCIL

I hereby certify that Ordinance No. 2013-139 was duly enacted this 18th day of December, 2013, by the Council of the City of Kent, Ohio.

________________________________________

CLERK OF COUNCIL
EASEMENT AND RIGHT-OF-WAY AGREEMENT

ACCESS AND UTILITY EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar ($1.00), the receipt of which is acknowledged and such other consideration as is herein below set forth, the undersigned Crosslines as Golden Pond Unit Owner's Association Inc., an Ohio Non-Profit Corporation and Kent Investment Partners, LLC, hereinafter referred to as "Grantor(s)", who claim title to certain real estate by deed recorded in Image No. 200105215 of the Portage County records, do (or does) for their heirs, successors, and assigns, hereby give, devise, grant and convey to the City of Kent, Ohio, a municipal corporation, which is hereinafter referred to as "Grantee", its successors and assigns, the perpetual right to a permanent exclusive easement and right-of-way to lay, maintain, operate, repair, remove and replace water lines, sanitary sewers and other utility lines, including gas, electric, telephone, cable TV and related necessary appurtenances and for emergency access over and through said real estate situated in the City of Kent, County of Portage, State of Ohio and known as being a part of Lot 3 of original Brimfield Township, said easement being more fully described as follows:

Commencing at a 1-inch iron pin found in a monument box at the Intersection of the centerline of Sunnybrook Road (60 feet wide) (a.k.a. Unlontown Kent Road) (a.k.a. Township Highway 11) with the centerline of Currie Hall Parkway:

Thence South 17° 00' 00" West, along the centerline of said Sunnybrook Road, a distance of 1633.85 feet to the northeasterly corner of a parcel of land described in a deed to Jon L. Horning, II as recorded in Volume 1135, Page 517 of the Portage County Deed Records and the Intersection of Meloy Road (60 feet wide) (a.k.a. Township Highway 92), said point being 0.03 feet southerly from and 1.12 feet westerly from a 1-inch iron pin found in a monument box.

Thence continuing South 17° 00' 00" West, along the centerline of said Sunnybrook Road and the easterly line of said Horning parcel, a distance of 317.04 feet to a point;

Thence North 77° 07' 59" West, a distance of 30.08 feet to a monument box found at the Intersection of the centerline of Shaw Drive (private drive) with the westerly right-of-way line of said Sunnybrook Road, and the True Place of Beginning of land herein described;

Course 1: Thence South 17° 00' 00" West, along the westerly right-of-way line of said Sunnybrook Road, a distance of 27.66 feet to a point in the northerly line of a parcel of land described in a deed to Terry and S. Louise Neubert as recorded in Volume 972, Page 534 of the Portage County Deed Records, said point being .25 feet southerly from and 1.11 feet easterly from a ¾-inch iron pin found;

Course 2: Thence North 77° 04' 26" West, along the southerly line of said Shaw Drive, a distance of 261.10 feet to a 1-inch iron pipe found;
Course 3: Thence North 77° 12’ 02” West, along the southerly line of said Shaw Drive, a distance of 155.07 feet to a point of curvature;

Course 4: Thence Northwesterly, continuing along the southwesterly line of said Shaw Drive, a distance of 596.02 feet along the arc of a curve that bears to the right, with a radius of 477.50 feet and a chord length of 558.08 feet bearing North 41° 22’ 28” West to a point of tangency;

Course 5: Thence North 05° 36’ 56” West, continuing along the westerly line of said Shaw Drive, a distance of 200.93 feet to a point of curvature;

Course 6: Thence Northwesterly, continuing along the westerly line of said Shaw Drive, a distance of 162.45 feet along the arc of a curve that bears to the left, with a radius of 472.50 feet and a chord length of 161.66 feet bearing North 15° 27’ 55” West to a point of tangency;

Course 7: Thence North 25° 18’ 53” West, continuing along the westerly line of said Shaw Drive, a distance of 183.05 feet to a point;

Course 8: Thence North 64° 36’ 38” West, a distance of 190.19 feet to a point in the easterly line of a 30 foot wide sanitary sewer easement;

Course 9: Thence South 84° 32’ 08” West, a distance of 30.00 feet to a point in the westerly line of said 30 foot sanitary sewer easement and the easterly right-of-way line of the Wheeling & Lake Erie Railroad;

Course 10: Thence North 05° 27’ 52” West, along the easterly right-of-way line of said Wheeling & Lake Erie Railroad, a distance of 271.33 feet to a 3/4-inch iron pipe found in the southerly right-of-way line of State Route 261 (width varies);

Course 11: Thence South 86° 34’ 27” East, along the southerly right-of-way line of said State Route 261, a distance of 30.36 feet to a point in the easterly line of said 30 foot sanitary sewer easement;

Course 12: Thence South 05° 27’ 52” East, parallel to the easterly line of said Wheeling & Lake Erie Railroad and along the easterly line of said 30 foot sanitary sewer easement, a distance of 243.34 feet to a point;

Course 13: Thence South 64° 36’ 38” East, a distance of 201.35 feet to a point of curvature in the northerly line of said Shaw Drive;

Course 14: Thence Southeasterly, along the northerly line of said Shaw Drive, a distance of 132.76 feet along the arc of a curve that bears to the right, with a radius of 89.00 feet and a chord length of 120.79 feet bearing South 88° 32’ 23” East to a point;

Course 15: Thence North 50° 38’ 43” East, a distance of 1.91 feet to a point;
Course 16: Thence Northerly, a distance of 136.62 feet along the arc of a curve that bends to the right, with a radius of 310.00 feet and a chord length of 135.52 feet bearing North 63° 16' 14" East to a point in the westerly line of a parcel of land described in a deed to Golden Pond, LLC as recorded in Image Number 200429663 of the Portage County Deed Records.

Course 17: Thence South 34° 57' 49" East, along the westerly line of said Golden Pond, LLC parcel, a distance of 37.44 feet to a point.

Course 18: Thence South 84° 13' 33" West, a distance of 24.86 feet to a point.

Course 19: Thence South 61° 43' 33" West, a distance of 117.62 feet to a point of curvature in the easterly line of said Shaw Drive.

Course 20: Thence Southwesterly, along the easterly line of said Shaw Drive, a distance of 109.94 feet along the arc of a curve that bends to the right, with a radius of 89.00 feet and a chord length of 103.08 feet bearing South 09° 24' 41" West to a point of reverse curvature.

Course 21: Thence Southwesterly, continuing along the line of said Shaw Drive, a distance of 30.66 feet along the arc of a curve that bends to the left, with a radius of 25.00 feet and a chord length of 28.77 feet bearing South 09° 40' 13" West in a point of reverse curvature.

Course 22: Thence Southwesterly, continuing along the easterly line of said Shaw Drive, a distance of 182.69 feet along the arc of a curve that bends to the right, with a radius of 527.50 feet and a chord length of 181.77 feet bearing South 13° 32' 13" East in a point of tangency.

Course 23: Thence South 03° 36' 56" East, continuing along the easterly line of said Shaw Drive, a distance of 200.93 feet to a point of curvature.

Course 24: Thence Southwesterly, along the northeasterly right-of-way line of said Shaw Drive, a distance of 527.37 feet along the arc of a curve that bends to the left, with a radius of 428.20 feet and a chord length of 493.80 feet bearing South 41° 22' 28" East to a point of tangency.

Course 25: Thence South 77° 07' 59" East, continuing along the northeasterly line of said Shaw Drive, a distance of 240.15 feet to a point in the westerly right-of-way line of said Sunnybrook Road.

Course 26: Thence South 17° 00' 00" West, along the westerly right-of-way line of said Sunnybrook Road, a distance of 27.57 feet to a monument box found at the intersection of the centerline of said Shaw Drive with the westerly right-of-way line of said Sunnybrook Road and the True Place of Beginning.

Containing within said bounds 2.5717 acres of land, be the same more or less, but subject to all legal highways and easements of record as surveyed by Michael C. Bramhall, P.S. 8077, for Bramhall Engineering and Surveying Company, Inc. in September of 2004. All bearings are intended to describe angles only. The basis of bearings used was a portion of the centerline of Sunnybrook Road (60 feet wide) (f.k.a. Uniontown Kent Road) (a.k.a. Township Highway 111), which was assumed to be South 17° 00' 00" West.
The above described easement is known as being a part of existing Portage County Auditor's Permanent Parcel Number 45-032-00-0014-000. Together with the right of the City of Kent, its agents or employees, to store earth and materials during the period of construction, repair or replacement of such waterlines, sanitary sewers and other utility lines upon the premises of the Grantee on an additional strip of land ten (10) feet wide along the east and south sides of the above described easement.

And grantor(s) do agree to keep said easement free of all permanent structures, providing that the City of Kent, Portage County, Ohio shall operate and maintain said improvement as a public facility in accordance with the standards, policies and procedures of other similar public facilities within the City of Kent and shall properly backfill and restore the ground surface and ground cover vegetation to the condition existing immediately prior to such construction, reconstruction, maintenance or repair; except that said City shall not be required to repair any structures (such as buildings, driveways, light poles and appurtenances, catch basins, storm sewers, utility service lines, pavement, curbing or landscape islands belonging to Grantee and located within the easement and right-of-way, unless such damage was caused by an intentional act of negligence of the City of Kent, its agents, employees, contractors, licensees, or invitees.)
IN WITNESS WHEREOF, the Grantor has hereunto set its signature this ___ day of September, 2013.

WITNESS:

GRANTORS: Crossings at Golden Pond Unit Owners Association Inc.

By: Robert Rummel, Jr
President, Crossings at Golden Pond Unit Owners Association Inc.

STATE OF OHIO

) SS:

COUNTY OF PORTAGE

This day, before me, a Notary Public of the State and County aforesaid, personally appeared Robert Rummel, Jr., President of Crossings at Golden Pond Unit Owners Association Inc., with whom I am personally acquainted and who upon oath acknowledged himself to be such President of aforementioned Crossings at Golden Pond Unit Owners Association Inc. and that he as such President being authorized so to do executed the foregoing instrument for the purpose therein contained by signing in the name of the Association as such President.

Witness my hand official seal this ___ day of ___

My Commission Expires: 4/27/18

Jason C. Saul
Notary Public, State of Ohio
My Commission Expires
April 27, 2018

IN WITNESS WHEREOF, the Grantor has hereunto set its signature this ___ day of September, 2013.

WITNESS:

GRANTOR: Kent Investment Partners

By: Jonathan A. Wilcox
Managing Member

STATE OF OHIO

) SS:

COUNTY OF PORTAGE

This day, before me, a Notary Public of the State and County aforesaid, personally appeared Jonathan A. Wilcox of Kent Investment Partners LLC, with whom I am personally acquainted and who upon oath acknowledged himself to be a managing member of aforementioned Kent Investment Partners LLC and that he as such managing member being authorized so to do executed the foregoing instrument for the purpose therein contained by signing in the name of the company as such managing member.

Witness my hand official seal this ___ day of ___, 2013.

My Commission Expires: 4/22/2017

Julie Gammello
Notary

JULIE GAMMELLO
NOTARY PUBLIC, STATE OF OHIO
FRANKLIN COUNTY
My Commission Expires 4/22/2017
WAIVER OF RIGHT TO HAVE APPRAISAL.

OHIO DEPARTMENT OF TRANSPORTATION

Address........................................ Date...................................................

ATIN:

Re: County.............. Route
Section
Parcel No.
Fed. No.
Dear Sir:

You have fully advised me/us that under both State and Federal laws, I/we have the right to have an appraisal made and receive payment of Fair Market Value (just compensation) for my/our property before I am/were required to surrender possession. Notwithstanding this right, I/we hereby waive all or any parts of my/our rights noted above and willingly agree to the conditions as evidenced by descriptive records for the above parcel.

Very truly yours,

Owner: Crossings at Golden Pond

Agent: Lorie Goss

(This form shall be executed and shall be recorded with any easement of fee title granted to the City without the benefit of an appraisal of or compensation less than the appraisal amount where an appraisal has been obtained where such easement of fee title property acquisition may be at some future date a part of a project where funds from State or Federal sources may be used in the construction of the improvement for which the easement of fee title was acquired.)
EASEMENT AND RIGHT-OF-WAY AGREEMENT

GRANTING EASEMENT FOR SHARED USE FACILITY
Affecting Parcel ID 45-003-00-00-014-007

FOR AND IN CONSIDERATION of the sum of One Dollar ($1.00), the receipt of which is acknowledged, and such other consideration as is herein below set forth, the undersigned Crossings at Golden Pond Unit Owners Association, hereinafter referred to as "Grantor(s)"), who claim title to certain real estate by deed recorded in Image Number 200505215 of the Portage County records, do for their heirs, successors, and assigns, hereby give, devise, grant and convey to the City of Kent, Ohio, a municipal corporation, which is hereinafter referred to as "Grantee," its successors and assigns, the perpetual right to a permanent exclusive easement and right-of-way to lay, restore, operate, repair, remove and replace shared use waterlines, sewers and other utility lines, including gas, electric, telephone, cable TV and related necessary appurtenances over and through said real estate situated in the City of Kent, County of Portage, State of Ohio and known as being a part of Lot Number 3 of Original Brimfield Township, said easement being more fully described as follows:

Situated in the City of Kent, County of Portage, State of Ohio, known as being part of Original Brimfield Township Lot Number 3 and part of a parcel described in a deed to Crossings at Golden Pond – Portage County, L.L.C. as recorded in Image Number 200505215 of the Portage County Deed Records and further described as follows:

Commencing at a 1-inch iron pin found in a monument box at the intersection of the centerline of Sunnybrook Road (60 feet wide) (f.k.a. Uniontown Kent Road) (a.k.a. Township Highway 11) with the centerline of Currie Hall Parkway;

Thence South 170 00' 00" West, along the centerline of said Sunnybrook Road, a distance of 1633.85 feet to the northeasterly corner of a parcel of land described in a deed to Jon L. Horning, II as recorded in Volume 1135, Page 571 of the Portage County Deed Records and the intersection of Meloy Road (60 feet wide)(a.k.a. Township Highway 92), said point being 0.03 feet southerly from and 0.12 feet westerly from a 1-inch iron pin found in a monument box;

Thence continuing South 170 00' 00" West, along the centerline of said Sunnybrook Road and the easterly line of said Horning parcel, a distance of 200.09 feet to a point;

Thence North 720 56' 14" West along the southerly line of said Horning parcel, a distance of 30.00 feet to a point in the westerly right-of-way line of said Sunnybrook Road and the True Place of Beginning of land herein described;

EXHIBIT C
Course 1: Thence South 17° 00' 00" West, along the westerly right-of-way line of said Sunnybrook Road, a distance of 146.81 feet to a point in the northerly line of a parcel of land described in a deed to Terry C. and Sandra L. Neubert as recorded in O.R. Volume 399, Page 145 of the Portage County Deed Records, said point also being in the southerly line of Shaw Drive (Private). Said point being 0.25 feet southerly from and 1.11 feet easterly from a 1/2-inch iron pin found;

Course 2: Thence North 77° 04' 26" West, along the northerly line of said Neubert parcel, a distance of 10.03 feet to a point;

Course 3: Thence North 17° 00' 00" East, parallel with said centerline of Sunnybrook Road, a distance of 147.53 feet to a point in the southerly line of said Horning parcel;

Course 4: Thence South 72° 56' 14" East, along the southerly line of said Horning parcel, a distance of 10.00 feet to a point in the westerly right-of-way line of said Sunnybrook Road and the True Place of Beginning.

Containing within said bounds 0.0338 of an acre of land, be the same more or less, but subject to all legal highways and easements of record as surveyed by Bramhall Engineering and Surveying Company, Inc. in September of 2004. All bearings are intended to describe angles only. The basis of bearings used was a portion of the centerline of Sunnybrook Road (60 feet wide) (f.k.a. Uniontown Kent Road) (a.k.a. Township Highway 11), which was assumed to be South 17° 00' 00" West.

The above described easement is known as being a part of Portage County Auditor’s Permanent Parcel Number 45-003-00-00-014-007.

The above described easement is intended to be 10 feet wide and parallel to the westerly right-of-way line of Sunnybrook Road.

Together with the right of the City of Kent, its agents or employees, to store earth and materials during the period of construction, repair or replacement of said shared use facility, waterlines, sewers and other utility lines upon the premises of the Grantor on an additional strip of land ten (10) feet wide along the east and south sides of the above described easement.

And grantor(s) do agree to keep said easement free of all permanent structures and to maintain said shared use facility in a manner that keeps it free of obstruction and/or abates any natural or man-made nuisance that impedes use, providing that the City of Kent, Portage County, Ohio shall operate and maintain said improvement as a public facility in accordance with the standards, policies and procedures of other similar public facilities within the City of Kent and shall properly backfill and restore the ground surface and ground cover vegetation to the condition existing immediately prior to such construction, reconstruction, restoration or repair; except that said City shall not be required to repair any structures, such as buildings, driveways, light poles and appurtenances, catch basins, storm sewers, utility service lines, pavement, curbing or landscape islands belonging to Grantor and located within the easement and right-of-way, unless such damage was caused by an intentional act of negligence of the City of Kent, its agents, employees, contractors, licensees, or invitees.
IN WITNESS WHEREOF, the Grantor has hereunto set its signature this 13th day of November, 2013.

WITNESS:

[Signature]

GRANTOR:
Crossings at Golden Pond
Unit Owners Association Inc.

By: Robert R. Rummel
President, Crossings at Golden Pond
Unit Owners Association Inc.

STATE OF OHIO

COUNTY OF PORTAGE

This day, before me, a Notary Public of the State and County aforesaid, personally appeared Robert R. Rummel, President of Crossings at Golden Pond Unit Owners Association Inc., with whom I am personally acquainted and who upon oath acknowledged himself to be such President of aforementioned Crossings at Golden Pond Unit Owners Association and that he as such President being authorized so to do executed the foregoing instrument for the purpose therein contained by signing in the name of the Unit Owners Association as such President.

Witness my hand official seal this 13th day of November, 2013.

My Commission Expires: 4-27-18

[Signature]
Notary

Accepted by City of Kent Council: ____________, 2013

THIS INSTRUMENT PREPARED BY: James R. Silver