RESOLUTION NO. 2017-127

A RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN EASEMENT AND RIGHT OF WAY AGREEMENT WITH PORTAGE COUNTY BOARD OF COMMISSIONERS TO RELOCATE AN EXISTING SANITARY SEWER PIPE, AND DECLARING AN EMERGENCY.

WHEREAS, Portage County Board of Commissioners has offered the City to consider acceptance of a sanitary sewer easement; and

WHEREAS, the property known as 411 Devon Place – University Hospitals, leases the land from the Portage County Board of Commissioners and has added a corridor between two (2) buildings; and

WHEREAS, as a result, the existing sanitary sewer pipe has to be relocated causing the need for an additional easement.

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 concurring:

SECTION 1. That Council does hereby authorize the City Manager, or his designee, to enter into an Easement and Right of Way Agreement with the Portage County Board of Commissioners to relocated an existing sanitary sewer pipe for the property known as 411 Devon Place – University Hospitals 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: October 18, 2017

Jerry T. Fiala
Mayor and President of Council

DATE

ATTEST:
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 WHOMS 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 RESOLUTION No. ____________, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON ____________, 20______.

TARA GRIMM, CMC
CLERK OF COUNCIL
(SEAL)
EXHIBIT "A"

EASEMENT AND RIGHT-OF-WAY AGREEMENT

GRANTING EASEMENT FOR UTILITY LINE CONSTRUCTION

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 Portage County Board of Commissioners, an Ohio Governmental Agency, hereinafter referred to as "Grantor(s)", who claim title to certain real estate by deed recorded in Document Number 009635726 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 waterlines, sewers and other utility lines, 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 5 of original Brimfield Township, said easement being more fully described as follows:

Situated in the City of Kent, County of Portage and State of Ohio and known as being part of Block "A" in the Consolidation Plat of Devon Place Subdivision as Platted in Volume 36, Page 33 and Devon Place Vacation as Platted in Volume 96, Page 20 in Block "A" and Vacation and Dedication of Public Utility Easements as shown by the recorded plat in Volume 96, Page 57 of Portage County Records:

Beginning at the Southwesterly corner of said Block "A" in said Plat and said point also being on the Easterly right of way for Cleveland Canton Road (State Route 43) (width varies).

Thence North 18°06' 49" West, along the Easterly right of way of said Cleveland – Canton Road, a distance of 42.97 feet to the Northwesterly corner of an existing 25 foot Sanitary Sewer Easement;

Thence North 54°27'00" East, along the Northerly line of said existing Sanitary Sewer Easement, a distance of 179.53 feet;

Thence North 01°02'04" West, continuing along the Northerly line of said existing Sanitary Sewer Easement, a distance of 45.80 feet;

Thence North 54°54'24" East, continuing along the Northerly line of said existing Sanitary Sewer Easement, a distance of 127.43 feet to the principal place of beginning of the land herein described;

Course 1 Thence North 51°56'50" East, a distance of 98.28 feet;
EXHIBIT "A"

Course 2  Thence North 74°07'20" East, a distance of 118.14 feet;
Course 3  Thence South 59°38'45" East, a distance of 53.47 feet to a point on the Northerly line of said existing Sanitary Sewer Easement;
Course 4  Thence South 38°06'36" West, a distance of 32.29 feet to a point on the Southerly line of said existing Sanitary Sewer Easement;
Course 5  Thence South 88°49'53" West, along the Southerly line of existing Sanitary Sewer Easement, a distance of 22.79 feet;
Course 6  Thence South 82°52'19" West, continuing along the Southerly line of existing Sanitary Sewer Easement, a distance of 95.54 feet;
Course 7  Thence South 60°41'35" West, continuing along the Southerly line of existing Sanitary Sewer Easement, a distance of 91.81 feet;
Course 8  Thence South 54°54'24" West, continuing along the Southerly line of existing Sanitary Sewer Easement, a distance of 6.26 feet;
Course 9  Thence North 35°21'17" West, a distance of 25.00 feet to the principal place of beginning and containing 0.2137 Acre (9,308 Square Feet) of land.

Be the same more or less, but subject to all legal highways and easements of record.

Together with the right of the City of Kent, it agents or employees, to store earth and materials during the period of construction, repair or replacement of such waterlines, sanitary sewers and storm sewers upon the premises of the Grantor on an additional strip of land ten (10) feet wide along the east and north sides of the above described easement.

And grantor(s) do agree to keep said easement free of all permanent structures excepting the existing corridor per the drawings approved by the City of Kent on March 3, 2017, 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 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. Review and approval of any modification to the foundation shall be obtained prior to any modifications of the corridor. Grantor(s) further agree that fill over one foot in depth is prohibit within the easement.
EXHIBIT "A"

IN WITNESS WHEREOF, the Grantor has hereunto set its signature this _____ day of _____________, 2017.

WITNESS:  GRANTOR: __________________________
__________________________________________  By: __________________________

STATE OF OHIO  )
   ) SS:
COUNTY OF PORTAGE)

This day, before me, a Notary Public of the State and County aforesaid, personally appeared Sabrina Christian-Bennett, Commission of Portage County, Ohio, with whom I am personally acquainted and who upon oath acknowledged himself to be such Commissioner of aforementioned Portage County and that he as such Commissioner being authorized so to do executed the foregoing instrument for the purpose therein contained by signing in the name of Portage County as such Commissioner.

Witness my hand official seal this __________ day of ______________________, 2017.

My Commission Expires: __________

______________________________
Notary

STATE OF OHIO  )
   ) SS:
COUNTY OF PORTAGE)

This day, before me, a Notary Public of the State and County aforesaid, personally appeared Maureen T. Frederick, Commission of Portage County, Ohio, with whom I am personally acquainted and who upon oath acknowledged himself to be such Commissioner of aforementioned Portage County and that he as such Commissioner being authorized so to do executed the foregoing instrument for the purpose therein contained by signing in the name of Portage County as such Commissioner.

Witness my hand official seal this __________ day of ______________________, 2017.

My Commission Expires: __________

______________________________
Notary
This day, before me, a Notary Public of the State and County aforesaid, personally appeared Vicki A. Kline, Commission of Portage County, Ohio, with whom I am personally acquainted and who upon oath acknowledged himself to be such Commissioner of aforementioned Portage County and that he as such Commissioner being authorized so to do executed the foregoing instrument for the purpose therein contained by signing in the name of Portage County as such Commissioner.

Witness my hand official seal this __________ day of ________________, 2017.

My Commission Expires: __________

______________________________
Notary

Accepted by City of Kent Council: __________, 2017

THIS INSTRUMENT PREPARED BY: Jim Silver, Law Director
Extent of Sanitary Sewer relocated as referenced in and Dedication of Public Easements Recorded in Vol. 3, Pg. 57 P.C.R.

BLOCK "A"
P.P.N. 45-005-00-00-008-008
Portage County Board of Commissioners