ORDINANCE NO. 2017-148

AN ORDINANCE ACCEPTING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN AGREEMENT BETWEEN 315 RFK, LLC, AN OHIO LIMITED LIABILITY COMPANY, AND THE CITY OF KENT, OHIO, WITH THE CITY OBTAINING A PERPETUAL EASEMENT FOR STORM WATER MANAGEMENT PURPOSES OF INSTALLING, CONSTRUCTING, RECONSTRUCTING, REPAIRING AND MAINTAINING STORM WATER SYSTEMS, 0.0296 ACRES OF REAL PROPERTY, IN EXCHANGE FOR THE VACATION OF SEVERAL EXISTING EASEMENTS ACROSS GRANTOR'S PROPERTY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent Council desires to obtain a permanent easement of 0.0296 acres of real property from 315 RFK, LLC; and

WHEREAS, 315 RFK, LLC is willing to grant a perpetual easement in said property in exchange for the vacation of several existing easements; and

WHEREAS, the City needs the property for storm water management purposes to repair, maintain, install, construct and reconstruct storm sewers; and

WHEREAS, time is of the essence because the sooner the City acquires the necessary easement 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 between 315 RFK, LLC and the City of Kent to obtain a perpetual easement of 0.0296 acres of real property for storm water management purposes to repair, maintain, install, construct and reconstruct the storm sewers in exchange for the vacation of several existing easements; 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: November 15, 2017
Date

EFFECTIVE: November 15, 2017
Date

ATTEST: [Signature]
Tara Grimm, CMC
Clerk of Council


_________________________
TARA GRIMM, CMC
CLERK OF COUNCIL
(Seal)
STORM SEWER EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") made between 315 RFK, LLC, an Ohio Limited Liability Company of 315 Gougler Avenue, Kent, Ohio 44240, hereinafter called ("Grantor"), and the CITY OF KENT, OHIO, a Municipal Corporation organized under the laws of Ohio, having its principal office at 319 South Water Street, Kent, Ohio 44240 ("Grantee").

RECITALS

Grantor is the fee owner of the real property in Portage County, Ohio (the "Property"), more particularly known as 315 Gougler Avenue, Kent, Ohio, having taken title to said property in Document No. 201520120, filed for record on December 18, 2015 with the Portage County, Ohio Recorder’s Office.

Grantee has installed a storm sewer pipe (the "Pipe") within a portion of the Property. The approximate location of the Pipe is depicted on the attached Exhibit. The Easement covers ten (10) feet on each side of the centerline of the Pipe as installed.

Grantee has installed some of the Pipe required and Grantor desires to grant to Grantee an easement, according to the terms and conditions contained in this Agreement.

SECTION ONE
SCOPE OF EASEMENT

The perpetual storm water drainage easement granted in this Agreement includes the right of Grantee, its contractors, agents, and employees to enter the premises at all reasonable times for the purpose of locating, constructing, reconstructing, operating, maintaining, inspecting, and repairing storm sewer, and ground surface drainage ways in the described easement area.

The Pipe shall be maintained by the Grantee at its sole cost and expense. Grantee shall repair any damage to property of Grantor or pay any damages which may be caused to property of Grantor solely by Grantee's activity on, or use of, the land subject to this easement. At its sole cost and expense and promptly after completion of any work within the easement area, Grantee will restore the surface and subsurface condition of the easement area to an equal or better condition as existed prior to Grantee's work.
SECTION TWO
MAINTENANCE

The Grantor shall not erect any permanent structures upon the easement for the Pipe described in the Recitals above, without the written consent of the Director of Public Service of the Grantee. The parties acknowledge that trees and structures now exist within the easement and shall be protected and, if necessary, replaced or restored by the Grantee.

Grantor may pave or lay asphalt over the easement for the Pipe or erect temporary or semi-permanent structures, with prior approval of the Director of Public Services of the Grantee.

SECTION THREE
TITLE OF GRANTOR

Grantor warrants it is the owner of the Property and has the right, title and capacity to convey to Grantee the easement in this Agreement. Title was taken through instrument number 201520120 of the Portage County Recorder’s Office on or about December 18, 2015.

SECTION FOUR
EASEMENT TO RUN WITH THE LAND

The grant of easement shall be valid only if accepted by City ordinance and shall run with the land and shall be binding on and shall inure to the benefits of the parties hereto, their heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands at _______________, Ohio, this __________ day of __________________, 2017.

315 RFK, LLC
GRANTOR/OWNERS:

__________________________
Managing Member

By: ________________________
STATE OF OHIO

COUNTY OF PORTAGE

Before me, a Notary Public in and for said County and State, personally appeared the above
name __________________________, who acknowledges that he signed the foregoing instrument
and that the same is his free act and deed.

IN WITNESS WHEREOF, I have set my hand and official seal at ________________,
this ________________ day of ________________, 2017.

____________________________
Notary Public

ACCEPTANCE OF EASEMENT

THIS EASEMENT accepted by the City of Kent, Ohio, this ________________ day of
__________________________, 2017, pursuant to Ordinance No. __________________________.

CITY OF KENT, OHIO

____________________________
City Manager

By: __________________________
STORM DRAIN OUTLET
EXISTING (0.0296 acres)

Situated in the City of Kent, County of Portage, State of Ohio, and known as being part of original Franklin Township, Lot No. 25 and being known as a 20-foot wide easement and being more fully described as follows:

Beginning at an iron pin in a monument box found on the center line of Gougler Avenue (60’ R/W) at the center line of Park Avenue (60’ R/W);

Thence N 03° 45’ 00” E along the center line of said Gougler Avenue, 334.82 feet to a point;

Thence S 86° 15’ 00” E, 30.00 feet to the east line of said Gougler Avenue and the southwest corner of lands described in deed to Brady’s Leap Partners, Limited Partnership as recorded in volume 1162, page 149 of Portage County Records;

Thence S 86° 15’ 00” E along the south line of said Brady’s Leap Partners Lands, 186.15 feet to the southeast corner thereof;

Thence N 02° 01’ 52” W along the east line of said Brady’s Leap Partners Lands, 49.97 feet;

Thence N 05° 16’ 33” E along the east line of said Brady’s Leap Partners Lands, 50.11 feet;

Thence N 03° 49’ 32” W along the east line of said Brady’s Leap Partners Lands, 33.08 feet to the True place of beginning for the easement area intended to be described herein;

Thence S 86° 46’ 30” E, 63.25 feet;

Thence N 03° 13’ 30” E, 20.00 feet;

Thence N 86° 46’ 30” W, 65.88 feet to the east line of said Brady’s Leap Partners Lands;

Thence S 07° 11’ 47” E, along the east line of said Brady’s Leap Partners Lands 2.71 feet;

Thence S 03° 49’ 32” E along the east line of said Brady’s Leap Partners Lands, 17.46 feet to the True Place of Beginning as determined by Robert J. Warner, P.S. 6931 for Environmental Design Group in October 2017.

Bearings are based on the center line of Gougler Avenue as described in deed volume 1162, page 149 of Portage County Records.
STORM DRAIN OUTLET
MIDDLE (0.013 acres)

Situated in the City of Kent, County of Portage, State of Ohio, and known as being part of original Franklin Township, Lot No. 25 and being known as a 20-foot wide easement and being more fully described as follows:

Beginning at an iron pin in a monument box found on the center line of Gouglar Avenue (60' R/W) at the center line of Park Avenue (60' R/W);

Thence N 03° 45' 00" E along the center line of said Gouglar Avenue, 334.82 feet to a point;

Thence S 86° 15' 00" E, 30.00 feet to the east line of said Gouglar Avenue and the southwest corner of lands described in deed to Brady’s Leap Partners, Limited Partnership as recorded in volume 1162, page 149 of Portage County Records;

Thence S 86° 15' 00" E along the south line of said Brady’s Leap Partners Lands, 186.15 feet to the southeast corner thereof and the True Place of Beginning for the easement area intended to be described herein;

Thence along the east line of said Brady’s Leap Partners Lands the following seven (7) courses;

1. N 02° 01’ 52” W, 49.97 feet;
2. N 05° 16’ 33” E, 50.11 feet;
3. N 03° 49’ 32” W, 50.54 feet;
4. N 07° 11’ 47” W, 50.90 feet;
5. N 15° 47’ 17” E, 51.14 feet;
6. N 02° 42’ 50” W, 50.32 feet;
7. N 03° 49’ 32” W, 14.47 feet to the True Place of Beginning for the easement area intended to be described herein;

Thence N 03° 49’ 32” W along the east line of said Brady’s Leap Partners Lands, 20.61 feet;

Thence N 72° 09’ 14” E, 25.01 feet;

Thence S 17° 50’ 46” E, 20.00 feet;
EXHIBIT "A"

Thence S 72° 09' 14" W, 30.00 feet to the True Place of Beginning as determined by Robert J. Warner, P.S. 6931 for Environmental Design Group in April 2017.

Bearings are based on the center line of Gougler Avenue as described in deed volume 1162, page 149 of Portage County Records.
STORM DRAIN OUTLET
NORTH (0.018 acres)

Situated in the City of Kent, County of Portage, State of Ohio, and known as being part of original Franklin Township, Lot No. 25 and being known as a 20-foot wide easement and being more fully described as follows:

Beginning at an iron pin in a monument box found on the center line of Gougler Avenue (60' R/W) at the center line of Park Avenue (60' R/W);

Thence N 03° 45' 00" E along the center line of said Gougler Avenue, 738.67 feet to a point;

Thence S 87° 28' 07" E, 30.00 feet to the east line of said Gougler Avenue and the northwest corner of lands described in deed to Brady’s Leap Partners, Limited Partnership as recorded in volume 1162, page 149 of Portage County Records;

Thence S 87° 28' 07" E along the north line of said Brady’s Leap Partners Lands, 124.78 feet to the southeast corner of lands described in deed to the Kent Downtown Community Urban Redevelopment Corporation;

Thence N 07° 56' 33" W along the east line of said Downtown Community’s Lands, 22.04 feet to the True place of beginning for the easement area intended to be described herein;

Thence N 07° 56' 33" W along the said east line, 20.31 feet;

Thence N 72° 06' 21" E, 36.49 feet;

Thence S 17° 53' 39" E, 20.00 feet;

Thence N 72° 06' 21" W, 40.00 feet to the True Place of Beginning as determined by Robert J. Warner, P.S. 6931 for Environmental Design Group in April 2017.

Bearings are based on the center line of Gougler Avenue as described in deed volume 1162, page 149 of Portage County Records.