

ORDINANCE NO. 2017-138

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 PERMANENT WALKWAY AND BIKEWAY EASEMENT FOR HIKE AND BIKE TRAIL CONSTRUCTION, RECONSTRUCTION, INSTALLATION, MAINTENANCE AND REPAIR PURPOSES OF 0.227 ACRES OF REAL PROPERTY, IN EXCHANGE OF THE VACATION OF THE EXISTING EASEMENT FOR HIKE AND BIKE TRAIL PURPOSES ON THEIR PROPERTY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent Council desires to obtain a permanent walkway and bikeway easement of 0.227 acres of real property from 315 RFK, LLC; and

WHEREAS, 315 RFK, LLC is willing to grant a permanent walkway and bikeway easement in said property in exchange for the vacation of existing easements for hike and bike trails on their property; and

WHEREAS, the City needs the property for right-of-way purposes to install, construct, reconstruct, maintain and repair the hike and bike trail along the Cuyahoga River; and

WHEREAS, time is of the essence because the sooner the City acquires the necessary right-of-way for this project, the sooner the easement will accurately reflect the actual hike and bike trail location.

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 for the City of Kent to obtain a permanent walkway and bikeway easement for hike and bike trail purposes of 0.227 acres of real property for right-of-way purposes to install, construct, reconstruct, maintain and repair the hike and bike trail across the property of 315 RFK, LLC in exchange for the vacation of existing easements across the property of 315 RFK, LLC for a hike and bike trail; 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

J. Fiala
Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: November 15, 2017
Date

ATTEST: Tara Grimm
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 WHOSE 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 ORDINANCE No. _____, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON _____, 20_____.

TARA GRIMM, CMC
CLERK OF COUNCIL
(SEAL)

**CITY OF KENT, OHIO
PERMANENT WALKWAY AND BIKEWAY EASEMENT**

KNOWN ALL MEN BY THESE PRESENTS THAT 315 RFK, LLC., a Limited Partnership, who claims title by instrument recorded, Document No. _____ of the Portage County Records, hereinafter referred to as the "Grantors", for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration received to their satisfaction from the City of Kent, Ohio, a municipal corporation, hereinafter referred to as the "Grantee", do hereby give, grant, bargain and convey unto said Grantee, its successors and assigns forever a perpetual easement to construct, use, maintain, repair and replace a paved walkway and bikeway together with lights, conduit, and other necessary appurtenances thereto, in, upon and over the lands described in Exhibit "A" attached hereto and incorporated herein.

The Grantor further grants to the Grantee the right to access to the above described real estate to do any and all acts and things which may be necessary, proper or incidental to the construction, use, replacing, repairing, and maintaining of said walkway, lights, and appurtenances.

Grantors to fully use and enjoy said premises, except for the purposes granted to the Grantee and provided the Grantors shall not construct nor permit to be constructed any structures or obstructions on or over said easement.

EXHIBIT "A"

TO HAVE AND TO HOLD the rights and easement herein granted, for the uses and purposes and upon the conditions herein set forth, unto the said Grantee, its successors and assigns.

IN WITNESS WHEREOF, the Grantors have caused the foregoing instrument to be executed at Kent, Ohio, this _____ day of _____, 2017.

WITNESSED BY:

315 RFK, LLC
A Limited Liability Company

Managing Member

Print Name

BEFORE ME, a Notary Public, in and for said County and State, personally appeared the above name Grantor who acknowledged that he did sign the foregoing instrument and the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at _____, Ohio, this _____ day of _____, 2017.

Notary Public

EXHIBIT "A"
TRAIL EASEMENT LEGAL DESCRIPTION

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, 172.38 feet to the True Place of Beginning for the easement area intended to be described herein;

Thence along the westerly line of said easement the following seventeen (17) courses;

1. N 01° 21' 43" W, 31.14 feet;
2. N 04° 21' 40" W, 31.14 feet;
3. N 04° 46' 59" W, 36.26 feet;
4. N 02° 41' 46" W, 33.96 feet;
5. N 00° 47' 51" W, 29.93 feet;
6. N 01° 20' 19" E, 41.95 feet;
7. N 03° 16' 21" E, 23.12 feet;
8. Northeasterly 42.11 feet along the arc of a curve deflecting to the right having a radius of 112.00 feet and a chord of 41.86 feet that bears N 14° 05' 24" E;
9. Northeasterly 31.03 feet along the arc of a curve deflecting to the left have a radius of 55.00 feet and a chord of 30.49 feet that bears N 08° 40' 43" E;
10. N 08° 35' 25" W, 16.94 feet;
11. N 14° 06' 22" W, 37.14 feet;
12. N 20° 13' 49" W, 22.90 feet;
13. N 25° 44' 46" W, 31.18 feet;

EXHIBIT "A"

14. N 61° 04' 23" E, 3.00 feet;
15. Northwesterly 71.34 feet along the arc of a curve deflecting to the right having a radius of 200.00 feet and a chord of 70.96 feet that bears N 19° 10' 57" W;
16. N 08° 58' 03" W, 138.84 feet to the northeastern line of said Brady's Leap Partners Lands;
17. S 35° 17' 52" E along the east line of said Brady's Leap Partners Lands;

Thence along the easterly line of said Brady's Leap Partners Lands the following eleven (11) courses:

1. S 35° 17' 52" E, 38.51 feet;
2. S 07° 56' 33" E, 161.23 feet;
3. S 87° 28' 07" E, 24.42 feet;
4. S 11° 12' 31" E, 59.58 feet;
5. S 03° 49' 32" E, 50.54 feet;
6. S 02° 42' 50" E, 50.32 feet;
7. S 15° 47' 17" W, 51.14 feet;
8. S 07° 11' 47" E, 50.90 feet;
9. S 03° 49' 32" E, 50.54 feet;
10. S 05° 16' 33" W, 50.11 feet;
11. S 02° 01' 52" E, 49.97 feet to the grantor's southerly line;

Thence N 86° 15' 00" W, 13.77 feet to the True Place of Beginning and containing 0.227 acres of land as determined by Robert J. Warner, P.S. 6931 for Environmental Design Group in August 2017.

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