AN ORDINANCE AUTHORIZING THE VACATION OF A UTILITY LINE CONSTRUCTION EASEMENT FROM SUNRISE APARTMENTS LTD., 5694 RHODES ROAD, KENT, OH, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent previously entered into an utility line construction easement agreement with Sunrise Apartments, LTD, 5694 Rhodes Road, Kent, in September 2003; and 

WHEREAS, when the easement was granted by Sunrise Apartments, LTD., the City provided the mortgage and agreed to operate the pump station for ten years; and 

WHEREAS, Hallmark Campus Communities purchased the property, with plans to construct new student housing, and the easements conflict with the location of their proposed structures; and 

WHEREAS, since the mortgage provided to Sunrise Apartments, LTD. has been satisfied, and the City is no longer operating the pump station; this Council is satisfied that there is good cause for such vacation as prayed for, that it will not be detrimental to the general interest, and ought to be made.

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 the Utility Line Construction Easement from Sunrise Apartments LTD., 5694 Rhodes Road, a copy of which is attached hereto as “Exhibit A”, and made a part hereof, is hereby vacated.

SECTION 2. That a certified copy of this Ordinance shall be delivered by the City Engineer to the Portage County Recorder, for recording.

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 immediate after passage.

PASSED: _09/21/2011_ ___________________  - 
DATE  ___________________  - MAYOR AND PRESIDENT OF COUNCIL

ATTEST: ___________________  
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2011-__85__ was duly enacted on this _21_ day of _September_ , 2011, by the Council of the City of Kent, Ohio.

______________________________  
Clerk of Council
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 Sunrise Apartments LTD, an Ohio Corporation, hereinafter referred to as "Grantor", who claim title to certain real estate by deed recorded in Volume 439, Page 0842 of the Portage County records, does for itself and its 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, for a period of 10 (ten) years from the date of recording, the right to an exclusive easement and right-of-way to lay, maintain, operate, repair and remove waterlines, 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 15 of original Franklin Township, said easement being more fully described as follows:

Commencing at an iron pin on the South line of Lot 15 and at a Southeast corner of the Grantor’s property, which bears North 89 degrees 30 minutes West, 698.61 feet from the Southeast corner of Township lot no. 15;
Thence along the Grantor’s westerly property line North 0 degrees 42 minutes 32 seconds East 427.56 feet to a point;
Thence South 89 degrees 18 minutes 28 seconds East a distance of 7 feet to the true place of beginning for the easement described herein;
Thence parallel to the Grantors westerly property line and 7 feet east therefrom North 0 degrees 42 minutes 32 seconds East, 703.47 feet to a point on the existing right of way of Rhodes Road;
Thence along said right of way, North 60 degrees 18 minutes 24 seconds East, a distance of 23.03 feet to a point;
Thence South 0 degrees 42 minutes 32 seconds West a distance of 709.91 feet to a point;
Thence North 89 degrees 18 minutes 28 seconds West a distance of 20 feet, to the true place of beginning of a 20-foot wide easement for waterline purposes.
Said easement contains 14099.1 sqft, (0.324 acres) of land more or less as described by Rhonda Boyd P.E. P.S. RLS # 8009.

Together with the right of the City of Kent, it agents or employees, to operate and maintain a 2 inch copper service lateral including a yard hydrant, through a 10 foot wide area centered over the 2 inch pipe extending from the above described easement to the sanitary lift station, and including the right to store earth and materials during the period of construction, repair or replacement of such waterlines upon the premises of the Grantor on an additional strip of land seven (7) feet wide along the west and east sides of the above described easement.

At the end of the 10 (ten)-year period, the Grantor, heirs, successors, and assigns, will assume ownership and maintenance responsibilities for the improvements contained within said easement.

And Grantor does 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 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 11th day of September, 2003.

WITNESS:

[Signature]

GRANTOR:

SUNRISE APARTMENTS, LTD.

By: [Signature]

John M. King, President

STATE OF OHIO

) SS:

COUNTY OF PORTAGE

This day, before me, a Notary Public of the State and County aforesaid, personally appeared John M. King, President of Sunrise Apartments, LTD, with whom I am personally acquainted and who upon oath acknowledged himself to be such John M. King, President of the aforesaid Sunrise Apartments, LTD. 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 partnership as such John M. King, President.

Witness my hand official seal this 11th day of September, 2003.

[Signature]

Notary Public

Accepted on 11th day of October, 2003

by the City of Kent, Ohio Council:

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THIS INSTRUMENT PREPARED BY: Rhonda Boyd, P.E., P.S., Senior Engineer City of Kent