RESOLUTION NO. 2019–5

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO GRANT A STORM SEWER EASEMENT TO THE UNITARIAN UNIVERSALIST CHURCH OF KENT, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Kent wishes to enter into a Storm Sewer Easement Agreement with the Unitarian Universalist Church of Kent located at 228 Goughler Avenue; and

WHEREAS, the Church is going to build a fellowship hall (217 N. Mantua Street) and in order to meet City code, they will be installing a stormwater management basin.

NOW, THEREFORE, BE IT RESOLVED 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 grant a Storm Sewer Easement to the Unitarian Universalist Church of Kent which easement is more fully described in the agreement marked “Exhibit A”, attached hereto and made a part thereof.

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: January 16, 2019

Date

Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: January 16, 2019

Date

ATTEST:

Tara Grimm, MMC
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 RESOLUTION NO. ____________, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON ___________, 20 __________.

(SEAL)

TARA GRIMM, MMC
CLERK OF COUNCIL
STORM SEWER EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") made between 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, hereinafter called Grantor ("Grantor"), and the UNITARIAN UNIVERSALIST CHURCH OF KENT of 228 Gougler Avenue, Kent, Ohio 44240 ("Grantee").

Know all men by these presents that the City of Kent, Ohio, a municipal corporation, who claims title by instrument recorded, Document No. 201711244 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 Unitarian Universalist Church of Kent, an Ohio 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 constructing, use, maintain, repair and replace a storm sewer drain pipe together with the necessary appurtenances thereto, in, upon and over the lands described in Exhibits "A" and "B" attached hereto and incorporate herein.

RECITALS

Grantor is the fee owner of the real property off Gougler Avenue in the City of Kent, Portage County, Ohio (the "property"), having taken title to said property in Document No. 201711244, filed for record on July 7, 2017 with the Portage County, Ohio Recorder's Office.

Grantee will be installing a storm sewer pipe (the "Pipe") within a portion of the Property. The approximate location of the Pipe is depicted on the attached Exhibit A. The Easements covers the area shown in Exhibit B.
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 pipe, 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 the property of Grantor or pay any damages which may be caused to the property of the 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 Grantee shall not erect any permanent structures upon the easement except for the Pipe described in the Recitals above, without the written consent of the Director of Public Service of the Grantor. The parties acknowledge that trees and structures now exist within the easement and shall be protect and, if necessary, replaced or restored by 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 the Agreement. Title was taken through Instrument number 201711244 of the Portage County Recorder’s Office on or about July 7, 2017.

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 WHEROF, the parties have hereunto set their hands at ________, Ohio, this _______ day of ____________, 2019.

Unitarian Universalist Church of Kent
GRANTEE/OWNERS:

________________________
Managing Member

By: ______________________

STATE IF OHIO )
)SS:
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 ____________, 2018.

________________________
Notary Public

ACCEPTANCE OF EASEMENT

THIS EASEMENT accepted by the City of Kent, Ohio, this _______ day of ___________________, 2019, pursuant to Ordinance No. _____________.

CITY OF KENT, OHIO

________________________
City Manager

By: ______________________
Acceptance of Easement by 315 RFK, LLC as current Land Lessee of parcel numbers 17-025-30-00-002-000 and 17-025-10-00-080-000 (Kent City Ordinance No.: 2017-62).

315 RFK, LLC

________________________________________
Authorized Member
STORM SEWER EASEMENT
GOUGLER AVENUE
CITY OF KENT

Situated in the State of Ohio, County of Portage, City of Kent, being part of Original Franklin Township Lot 25, being part of the land conveyed to The City of Kent as recorded in Instrument #201711244 of Portage County Recorder’s records, and being more particularly bounded and described as follows:

Beginning at a 5/8” rebar in monument box found and held marking the intersection of the centerline of Park Avenue (54’ wide) with the centerline of Gougler Avenue (60’ wide).

Thence N 03°42’26”E, along the centerline of Gougler Avenue, a distance of 404.05’ to a point thereon;

Thence N 86°17’34”W, a distance of 30.00’ to a point on the west right-of-way line of Gougler Avenue being the southeast corner of said City of Kent land. Said corner also being the northeast corner of land conveyed to Diane M. Delaney and Ted W. Long as recorded in Instrument #200507687 of Portage County Recorder’s records and the TRUE PLACE OF BEGINNING for the easement area described herein;

Thence N 74°21’06”W, along a south line of said City of Kent land and a north line of said Delaney and Long land, a distance of 77.64’ to a corner thereof;

Thence N 67°48’53”W, along a south line of said City of Kent land and a north line of said Delaney and Long land, a distance of 40.00’ to a point thereon;

Thence N 22°11’07”E, a distance of 20.00’ to a point;

Thence S 67°48’53”E, a distance of 38.86’ to a point;

Thence S 74°21’06”E, a distance of 41.55’ to a point;

Thence N 57°49’49”E, a distance of 28.42’ to a point;

Thence S 86°09’22”E, a distance of 7.02’ to a point on the west right-of-way line of Gougler Avenue;

Thence S 03°42’26”W, along the west right-of-way line of Gougler Avenue, a distance of 43.44’ to the TRUE PLACE OF BEGINNING and containing 0.062 acres (2,692 square feet) of land as surveyed by James P. Yurkschatt (P.S. 7809) of Campbell and Associates, Inc. on September 14, 2018.

The basis of bearings for this description is S 03°42’26”W as the west right-of-way line of Gougler Avenue and is the same bearing found in Instrument #201711244 of Portage County Recorder’s Records.

Resolution No. 2019-5
THE BASIS OF BEARINGS IS S 03°42'26" W AS THE
WEST RIGHT-OF-WAY LINE OF COUGLER AVENUE
AND IS THE SAME BEARING FOUND IN INSTRUMENT
#201711244 OF PORTAGE COUNTY RECORDER'S RECORDS.

STORM SEWER
EASEMENT
2,692 S.F.
0.062 AC.

The City of Kent
Instr. #201711244

First Universalist
Church of Kent
Instr. #201802881

Diane M. Delaney
and Ted W. Long
Instr. #200507687

STATE OF OHIO
JAMES P.
YURKSCHATT
7809
REGISTERED
SURVEYOR

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STORM SEWER EASEMENT EXHIBIT
STATE OF OHIO, COUNTY OF PORTAGE, CITY OF KENT
BEING PART OF ORIGINAL FRANKLIN TOWNSHIP LOT 25

3485 Fortune Drive
Suite 100
Akron, Ohio 44312
(330) 945-4117
www.campbellsurvey.com
DATE: 09/14/18
BY: JPY
JOB NO: 20180067