

**DRAFT ORDINANCE NO. 2021-016**

**AN ORDINANCE ACCEPTING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A RIGHT OF WAY AGREEMENT FOR THE PURPOSE OF OBTAINING TEMPORARY AND PERMANENT EASEMENTS FOR THE CONSTRUCTION OF THE SOUTHWEST SANITARY PUMP STATION PROJECT, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Kent Council desires to obtain certain temporary and permanent easements from property owners for the construction of the Southwest Sanitary Pump Station Project (“Project”); and

**WHEREAS**, the property owner listed below has agreed to sell the easement interests to the City for the Project in the amounts listed; and

**WHEREAS**, the City needs the property for right-of-way purposes for the construction of said Project.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Kent, Portage County, Ohio, that:

**SECTION 1.** That Council does hereby accept and authorizes the City Manager or his designee to execute the agreement for the City of Kent to obtain a temporary and permanent easement for construction of the Southwest Sanitary Pump Station project in substantial conformity with the terms of the Agreement marked as Exhibit “A”, attached hereto and incorporated herein for the following property:

- a) William A. Lewis, Jr. and Shauna M. Lewis, 1198 Middlebury, temporary easement (10-T) and sanitary sewer easement (10-S), \$1,752.00.

**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: \_\_\_\_\_  
Date

\_\_\_\_\_  
Jerry T. Fiala  
Mayor and President of Council

EFFECTIVE: \_\_\_\_\_  
Date

ATTEST: \_\_\_\_\_  
Amy Wilkens  
Clerk of Council

I, AMY WILKENS, 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)

\_\_\_\_\_  
AMY WILKENS  
CLERK OF COUNCIL

CITY OF KENT  
DEPARTMENT OF PUBLIC SERVICE  
DIVISION OF ENGINEERING

MEMO

To: Dave Ruller  
Amy Wilkens

From: Cori Finney

Date: January 19, 2021

RE: Southwest Sanitary Pump Station  
Temporary Work Agreements and Permanent Sanitary Easements

Engineering is requesting Council time for the approval of payments to two property owners of two parcels needed for the construction of the Southwest Sanitary Pump Station Project. The project is anticipated to start construction in 2021.

Portions of the existing sanitary sewer upstream of the Middlebury Pump Station and Yacavona Pump Station are located on private property. The new sanitary sewer that will be constructed with the Southwest Sanitary Pump Station project will be either located in the City's right-of-way or in a new sanitary sewer easement. In order to tie the existing laterals into the new sanitary sewer, some temporary work agreements are required. There is also a new sanitary sewer easement that will overlay an existing drainage easement along the rear properties of the east of Yacavona. A total of 11 temporary and 11 permanent easements will be required from 16 parcels. Please see attached map.

The following is a list of parcels and their perspective values included in this request:

<u>Property Owner</u>	<u>Take Number</u>	<u>Take Description</u>	<u>Amount</u>
William A. Lewis Jr. and Shauna M. Lewis	10-T	Temporary	\$1,420
	10-S	Sanitary	<u>\$332</u>
		<b>Combined Total</b>	<b>\$1,752</b>

The above values were obtained according to the federal right-of-way acquisition process. This process is required for the City to use Federal funds. Negotiation with the remaining three property owners is ongoing.

Cc: Melanie A. Baker, Service Director  
James Bowling, P.E., City Engineer  
Patti Long, Interim Assistant to the City Manager  
Hope Jones, Law Director  
Rhonda Hall, Budget & Finance Director  
file

LPA RE 807  
Rev. 10/2017

TE  
LPA

### TEMPORARY EASEMENT

William A. Lewis Jr. and Shauna M. Lewis, Co-Trustees of the Lewis Family Trust  
Dated November 25, 2019, the Grantor(s), in consideration of the sum of \$1,420.00, to be paid  
by City of Kent, the Grantee, do grant to Grantee the temporary easement(s) to exclusively  
occupy and use for the purposes mentioned in Exhibit A the following described real estate:

PARCEL(S): 17-009-20-00-062-000 T

CITY OF KENT – SOUTHWEST SANITARY PUMP STATION

SEE EXHIBIT A ATTACHED

Portage County Current Tax Parcel No. 17-009-20-00-062-000  
Prior Instrument Reference: Instrument No. 201920445, Portage County Recorder's Office.

To have and to hold the temporary easement(s), for the aforesaid purposes and for the  
anticipated period of time described below, unto the Grantee, its successors and assigns.

The duration of the temporary easement(s) granted to the Grantee is 12 months  
immediately following the date on which the work described above is first commenced by the  
Grantee, or its duly authorized employees, agents, and contractors.

The temporary easement(s) interest granted is being acquired by Grantee for a public  
purpose, namely the construction and maintenance of a sewer and utilities in the name of and for  
the use of the City of Kent.

IN WITNESS WHEREOF The Lewis Family Trust Dated November 25, 2019 by and through William A. Lewis Jr., the Co-Trustee of The Lewis Family Trust Dated November 25, 2019, has hereunto subscribed his name on the 23 day of NOV, 2020.

THE LEWIS FAMILY TRUST DATED  
NOVEMBER 25, 2019

By: William A. Lewis Jr.  
WILLIAM A. LEWIS JR.  
CO-TRUSTEE

STATE OF OHIO, COUNTY OF Portage ss:

BE IT REMEMBERED, that on the 23 day of NOV, 2020, before me the subscriber, a Notary Public in and for said state and county, personally came the above named William A. Lewis Jr., who acknowledged being the Co-Trustee of The Lewis Family Trust Dated November 25, 2019, and who acknowledged the foregoing instrument to be the voluntary act and deed of said The Lewis Family Trust Dated November 25, 2019.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.



KIMBERLY GEMBAR  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
November 07, 2022

Kimberly Gembar

NOTARY PUBLIC  
My Commission expires: 11.7.22

IN WITNESS WHEREOF The Lewis Family Trust Dated November 25, 2019 by and through Shauna M. Lewis, the Co-Trustee of The Lewis Family Trust Dated November 25, 2019, has hereunto subscribed her name on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

THE LEWIS FAMILY TRUST DATED  
NOVEMBER 25, 2019

By: \_\_\_\_\_  
SHAUNA M. LEWIS  
CO-TRUSTEE

STATE OF OHIO, COUNTY OF Portage ss:

BE IT REMEMBERED, that on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Shauna M. Lewis, who acknowledged being the Co-Trustee of The Lewis Family Trust Dated November 25, 2019, and who acknowledged the foregoing instrument to be the voluntary act and deed of said The Lewis Family Trust Dated November 25, 2019.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission expires: \_\_\_\_\_

This document was prepared by: The City of Kent, Ohio on forms approved by the Ohio Attorney General

SKETCH FOR

# SANITARY EASEMENT

1198 Middlebury Road

Situated in the City of Kent, County of Portage and State of Ohio and known as being part of Original Franklin Township Lot No. 9

Portage Homesites Replot  
Plat Bk. 16, Page 91

S/L 12-R

S/L 7-R

S/L 19

S/L 21

P.O.B.

S 17°39'49" E  
10.00'

N 72°23'11" E 99.89'

10.0'

S 72°23'11" W 99.89'

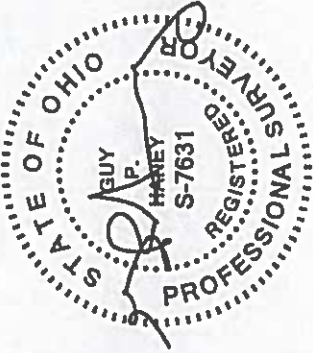
Sanitary Easement  
(999 SF)  
0.0229 AC.

N 17°39'49" W  
10.00'

S/L 20  
17-009-20-00-062-000  
Shauna M. & William A.  
Lewis Jr. (Co-Trustees)

Portage Homesites  
Plat Bk. 13, Page 24

# EXHIBIT A



TBC Engineering, LLC  
1310 BROADWAY ROAD, P.O. BOX 17  
SARASOTA, FL 34237  
PHONE: 337.500.0004 FAX: 337.500.0423



1198 MIDDLEBURY

KENT SANITARY ESMTS.

PROJECT NUMBER

1684-0

DATE

2020-07-08



EASEMENT AND RIGHT-OF-WAY AGREEMENT

GRANTING EASEMENT FOR UTILITY LINE CONSTRUCTION

1198 MIDDLEBURY ROAD

FOR AND IN CONSIDERATION of the sum of \$332.00, the receipt of which is acknowledged, and such other consideration as is herein below set forth, the undersigned William A. Lewis Jr., and Shauna M. Lewis, hereinafter referred to as "Grantor(s)", who claim title to certain real estate by deed recorded in Plat Book 13, Page 24 of the Portage County Recorder's Records, 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 sanitary 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 9 and further known as being part of Sublot 20 of original Franklin Township, said easement being more fully described as follows:

Boundary Description for  
1198 Middlebury Road  
10 foot Sanitary Sewer Easement  
City of Kent, County of Portage, State of Ohio  
0.0229 Acre Easement

Situated in the City of Kent, County of Portage and State of Ohio and known as being part of the Original Franklin Township Lot No. 9 and further known as being part of Sublot 20 as shown on Portage Homesites, recorded in Plat Book 13, Page 24 of the Portage County Recorder's Records and is bounded and described as follows: Beginning at the northeasterly corner of Sublot 20 and is the PRINCIPAL PLACE OF BEGINNING of the easement herein to be described:

thence South 17°39'49" East, along the easterly line of Sublot 20, 10.00 feet to a point thereon;

thence South 72°23'11" West, 10 feet from and parallel with the northerly line of Sublot 20, 99.89 feet to a point on the westerly line of Sublot 20;

thence North 17°39'49" West, along the westcrly line of Sublot 20, 10.00 feet to the northwesterly corner thereof;

thence North 72°23'11" East, along the northerly line of Sublot 20, 99.89 feet to the Principal Place of Beginning and containing 999 square feet or 0.0229 acres of land according to a survey by Guy P. Haney, P.S. No. S-7631, for TGC Engineering, LLC in July of 2020. Subject to all highways, easements and covenants of legal record.

Bearings are based on Ohio State Plane Coordinate System, North Zone, NAD 1983, ground.

For Drawings see attached Exhibit A



Together with the right of the City of Kent, its agents or employees, to store earth and materials during the period of construction, repair or replacement of such sewers and other utility lines upon the premises of the Grantor within the described 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 23 day of NOV, 2020.

WITNESS:

Kim Genbin  
\_\_\_\_\_

GRANTOR: [Signature]  
[Signature]  
By: William A. & Shauna M. Lewis Jr.

STATE OF OHIO, COUNTY OF PORTAGE, ss.:

This day, before me, a Notary Public of the State and County aforesaid, personally appeared William A Lewis Jr., and Shauna M. Lewis, to me known to be the person described in and who executed the foregoing instrument and acknowledgment that they executed the same as their free act and deed, for the purposes therein set forth.

Witness my hand official seal this 23 day of NOV, 2020.

My Commission Expires: 11.7.22  
[Signature]  
Notary



KIMBERLY GEMBAR  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
November 07, 2022

Accepted by City of Kent Council: \_\_\_\_\_, 2020.

THIS INSTRUMENT PREPARED BY: CTI Engineers, inc.

SKETCH FOR

# SANITARY EASEMENT

1198 Middlebury Road

Situated in the City of Kent, County of Portage and State of Ohio and known as being part of Original Franklin Township Lot No. 9

Portage Homesites Replat  
Plat Bk. 16, Page 91

S/L 12-R

S/L 7-R

S/L 19

S/L 21

S/L 20  
17-009-20-00-062-000  
Shauna M. & William A.  
Lewis Jr. (Co-Trustees)

Portage Homesites  
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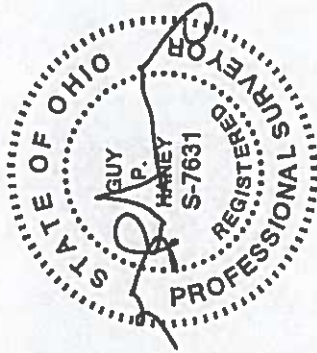
Sanitary Easement  
(999 SF)  
0.0229 Ac.

10.0'

S 73°32'21" W 99.89'

N 17°39'49" W  
10.00'

# EXHIBIT A



TBC Engineering, LLC  
1210 SHAWMUT COURT, SUITE 100, KENT, OHIO 44240  
PHONE: 330.590.8000 FAX: 330.590.8024



1198 MIDDLEBURY

KENT SANITARY ESMTS.

PROJECT NUMBER

1684-D

DATE

2020-07-06

