

ORDINANCE NO. 2023-068

AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) WITH KENT STATE UNIVERSITY TO ALLOW FOR THE RELOCATION OF THE CITY'S 24" WATERLINE, AND DECLARING AN EMERGENCY

WHEREAS, the City of Kent wishes to enter into a Memorandum of Understanding (MOU) with Kent State University to allow for the relocation of the City's 24" waterline; and

WHEREAS, the relocation of the waterline is required to accommodate the expansion of KSU's College of Aerospace & Engineering (CAEST) building on Summit Street and all funding has been budgeted and approved.

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

SECTION 1. That Council does hereby authorize the City Manager, or his designee, to enter into a Memorandum of Understanding with Kent State University to allow for the relocation of the City's 24" waterline of which is marked as Exhibit "A", attached hereto and incorporated herein.

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: October 18, 2023
Date
October 18, 2023
Date

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

EFFECTIVE: _____
Date

ATTEST: Amy Wilkens
Amy Wilkens, CMC
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 ORDINANCE No. 2023-068 ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON October 18, 2023.

(SEAL)

Amy Wilkens
AMY WILKENS, CMC
CLERK OF COUNCIL

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made and entered into this _____ day of _____, 2023, by and between Kent State University ("KSU") and the City of Kent, Ohio ("City").

WHEREAS, the City provides potable water to KSU; and

WHEREAS, a portion of the City's 24" watermain that supplies to KSU passes through an area in conflict with the expansion of the Kent State Aeronautics and Technology Building (CAEST) located on KSU property near the CAEST building, and

WHEREAS, KSU is building an addition onto the CAEST which will require the relocation of the City's 24" waterline; and

WHEREAS, the City is in agreement that the waterline needs to be relocated

NOW THEREFORE, for mutual consideration, the receipt of which is hereby acknowledged by both parties, KSU and the City express their mutual understanding as follows:

- 1) Each of the parties to this MOU will have obligations to meet in order to facilitate the relocation of the waterline as described hereafter:
 - A) KSU will be responsible for the following:
 - i) KSU will be responsible for the work connected to building the addition onto the CAEST.
 - ii) KSU will include the relocation plans for the waterline relocation with the CAEST construction package.
 - iii) KSU will manage the construction contract and oversee the work for the relocation of the waterline.
 - iv) KSU will notify the City of any changes orders for the relocation of the waterline necessary for review and approval.
 - v) KSU will notify the City when work on the waterline is commencing so that the City can get inspectors to the site in a timely manner.
 - vi) KSU will make the plans for relocation of the waterline available to the City for review and approval in a timely manner.
 - vii) Work with ODAS to get approval of the easement for the new waterline location.
 - B) The City will be responsible for the following:
 - i) The City will provide an easement plat and description to KSU for the relocation of the waterline, see exhibit "A"..
 - ii) The City will reimburse KSU 50% of the construction cost, up to \$60,000 to relocate the waterline.

- iii) Reviewing and approving the plans for the relocation of the waterline in a timely manner.
- 2) No terms of this agreement shall eliminate any of the existing rights the City currently has to area occupied by the existing waterline.
- 3) City shall pay KSU for the relocation of the waterline within sixty (60) days of presentation of an invoice for said construction to the City, in writing, at the address listed under the signature line of this MOU.
- 4) This MOU, together with the attached exhibit, contains all of the terms and conditions of the agreement between the parties, and any and all prior and contemporaneous oral and written agreements are merged herein.
- 5) This MOU cannot be changed nor can any provision of this MOU, or any right or remedy of any party, be waived orally. Changes and waivers can only be made in writing, and the change or waiver must be signed by the party against whom the change or waiver is sought to be enforced. Any waiver of any provision of this MOU, or any right or remedy, given on any one or more occasions shall not be deemed a waiver with respect to any other occasion.
- 6) This MOU shall be binding upon and inure to the benefit of the heirs, executors, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this MOU on the date indicated below. This agreement becomes effective on the date both parties have signed the document.

CITY OF KENT, OHIO

KENT STATE UNIVERSITY

JAG
7/28/2023

By _____

By 

Title _____

Title SVP, Fin & Admin

Date _____

Date 7/28/2023

APPROVED AS TO FORM:

Crystal Burnett: Approved
as to legal form and
sufficiency for Kent State
University 2023.07.21
11:36:12 -04'00'

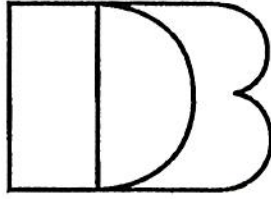
Hope Jones, Law Director
City of Kent

CERTIFICATE OF DIRECTOR OF BUDGET AND FINANCE

It is hereby certified that the amount of (\$ 60,000) required to meet the contract, agreement, obligation, payment or expenditure, for the above, has been lawfully appropriated or authorized or directed for such purposes and is in the City Treasury or in the process of collection to the credit of Water Fund free from any obligation or certificates now outstanding.

Date

Rhonda Hall
Budget & Finance Director



**Donald Bohning
& Associates**

7979 Hub Parkway
Valley View, Ohio 44125

T 216.642.1130

F 216.642.1132

20' Waterline Easement
277 sq ft. -Summit Road
DGB 5121-WL

April, 2023

EXHIBIT "A"
LEGAL DESCRIPTION

Situated in the City of Kent, County of Portage, and State of Ohio, and known as being part of Original Franklin Township Lot Number 14, and bounded and described as follows:

Beginning at a point of curvature in the centerline of Summit Road (CH 148), variable width, at station 128+11.07, as shown by the State of Ohio Department of Transportation POR-East Summit Street Improvement Plans PID No. 84546;

Thence North 51 degrees 47 minutes 44 seconds West along the centerline of Summit Road, 28.05 feet to a point;

Thence North 38 degrees 12 minutes 16 seconds East, 44.50 feet to a point in the northeasterly line of Summit Road;

Thence South 51 degrees 47 minutes 44 seconds East along the northeasterly line of Summit Road, 11.69 feet to an angle point, therein;

Thence South 54 degrees 51 minutes 13 seconds East along the northeasterly line of Summit Road, 155.28 feet to an angle point, therein;

Thence South 67 degrees 30 minutes 05 seconds East along the northeasterly line of Summit Road, 55.55 feet to an angle point with the northerly line of Relocated Johnston Drive;

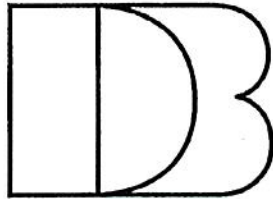
Thence North 83 degrees 38 minutes 32 seconds East along the northerly line of Relocated Johnston Drive, 117.50 feet to an angle point, therein;

Thence South 39 degrees 05 minutes 07 seconds East along the easterly line of Relocated Johnston Drive, 21.48 feet to a point in said centerline;

Thence South 37 degrees 52 minutes 33 seconds East along the easterly line of Relocated Johnston Drive, 31.77 feet to an angle point, therein;

Thence South 34 degrees 41 minutes 15 seconds West along southerly line of Relocated Johnston Drive, 32.34 feet to a point, and the principal place of beginning of the easement herein described;

Thence South 74 degrees 57 minutes 00 seconds East, 21.43 feet to a point in the northerly line of vacated Rhodes Road (vacated in Ordinance 1986-95);



**Donald Bohning
& Associates**

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20' Waterline Easement
277 sq ft. -Summit Road
DGB 5121-WL

Thence South 63 degrees 09 minutes 56 seconds West along the northerly line of said vacated Rhodes Road, 29.96 feet to a point;

Thence North 74 degrees 57 minutes 00 seconds West, 6.26 feet to a point in the southerly line of Relocated Johnston Drive;

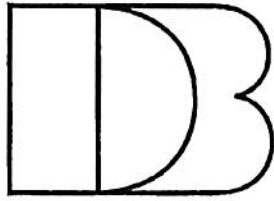
Thence North 34 degrees 41 minutes 15 seconds East along the southerly line of Relocated Johnston Drive, 21.24 feet to the principal place of beginning, and containing 277 square feet, as described by Donald G. Bohning & Associates, Inc. in April, 2023.

The courses used in this description are referenced to the State of Ohio Department of Transportation POR-East-Summit Street Improvement Plans PID No. 84546.

Michael A. Ackerman
Registered Surveyor No. 8196

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**Donald Bohning
& Associates**

7979 Hub Parkway
Valley View, Ohio 44125

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20' Waterline Easement
5239 sq. ft. - Summit Road
DGB 5121-WL

April, 2023

EXHIBIT "A"
LEGAL DESCRIPTION

Situated in the City of Kent, County of Portage, and State of Ohio, and known as being part of Original Franklin Township Lot Number 14, and bounded and described as follows:

Beginning at a point of curvature in the centerline of Summit Road (CH 148), variable width, at station 128+11.07, as shown by the State of Ohio Department of Transportation POR-East Summit Street Improvement Plans PID No. 84546;

Thence North 51 degrees 47 minutes 44 seconds West along the centerline of Summit Road, 28.05 feet to a point;

Thence North 38 degrees 12 minutes 16 seconds East, 44.50 feet to a point in the northeasterly line of Summit Road, and the principal place of beginning of the easement herein described;

Thence North 51 degrees 47 minutes 44 seconds West along the northeasterly line of Summit Road, 29.40 feet to a point;

Thence North 85 degrees 20 minutes 26 seconds East, 53.03 feet to a point;

Thence South 55 degrees 09 minutes 12 seconds East, 238.29 feet to a point in the northerly line of Relocated Johnston Drive;

Thence South 83 degrees 38 minutes 32 seconds West, 30.36 feet to a point;

Thence North 55 degrees 09 minutes 12 seconds West, 208.27 feet to a point;

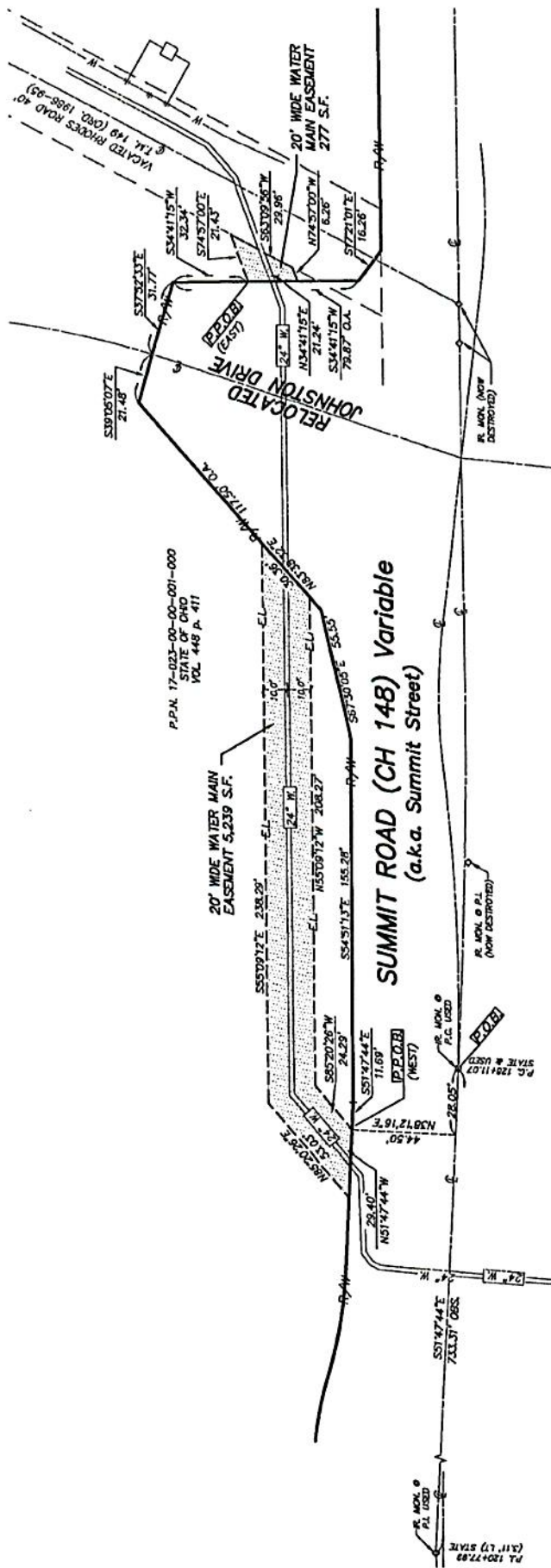
Thence South 85 degrees 20 minutes 26 seconds West, 24.29 feet to the principal place of beginning, and containing 5,239 square feet, as described by Donald G. Bohning & Associates, Inc. in April, 2023.

The courses used in this description are referenced to the State of Ohio Department of Transportation POR-East Summit Street Improvement Plans PID No. 84546.

Michael A. Ackerman
Registered Surveyor No. 8196



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P.P.N. 17-023-00-00-001-000
STATE OF OHIO
VOL. 446 P. 471

20' WIDE WATER MAIN
EASEMENT 5,239 S.F.

SUMMIT ROAD (CH 148) Variable
(a.k.a. Summit Street)

20' WIDE WATER
MAIN EASEMENT
277 S.F.

RELOCATED
JOHNSTON DRIVE

VACATED RICKS ROAD 40
(a.k.a. RICKS ROAD 1885-85)

NOTES:
STATIONING & RIGHT-OF-WAYS ARE SHOWN PER EAST SUMMIT
STREET IMPROVEMENT PLANS

SURVEY REFERENCES:
STATE- OHIO DEPARTMENT OF TRANSPORTATION POR-EAST SUMMIT
STREET IMPROVEMENTS PROJECT ID 84546, DATED APRIL 2014.

**EASEMENT TO ACCOMPANY LEGAL
DESCRIPTION FOR A 20' WIDE WATER MAIN
EASEMENT**

NOW IN THE CITY OF KENT
PORTAGE COUNTY, OHIO

SPOT ELEVATIONS ARE ALSO GIVEN IN FEET AND DECIMAL
PARTS THEREOF WITH AN ACCURACY OF .00 FOR HARD
SURFACES AND .0 FOR ALL OTHERS

DONALD G. BOHNING & ASSOCIATES, INC.
CIVIL ENGINEERING & SURVEYING
799 N.B. PARKWAY • VALLEY VIEW, OHIO 44125
PHONE: (216) 642-1100 FAX: (216) 642-1122

DATE	DATE
1" = 30'	APR, 2023
SCALE	DATE
5121-HL	5121-HL

