

ORDINANCE NO. 2019 - 80

AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO GRANT A GAS PIPELINE EASEMENT TO THE EAST OHIO GAS COMPANY, DBA DOMINION ENERGY OHIO, TO SERVE RIVERSIDE LANDING LOCATED AT 315 GOUGLER AVENUE, AND DECLARING AN EMERGENCY.

WHEREAS, Riverside Landing requires a larger gas service for a new bottling operation to begin; and

WHEREAS, the nearest Dominion Energy gas main that is large enough to provide the necessary quantity of gas is located on North Mantua Street which will cross over the City's parking lot of 300 Gougler Avenue.

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 Kent City Council hereby authorizes the City Manager, or his designee, to grant the gas pipeline easement to The East Ohio Gas Company, dba Dominion Energy Ohio, in order to serve Riverside Landing the gas service they require, and is more fully described in 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 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: July 17, 2019
Date

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

EFFECTIVE: July 17, 2019
Date

ATTEST: Dawn Bishop
Dawn Bishop
Interim Clerk of Council

I, DAWN BISHOP, INTERIM 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_____.

(SEAL)

DAWN BISHOP
INTERIM CLERK OF COUNCIL

SAP # 63735098 R/W # _____ Reference # 19-0220

GAS PIPELINE EASEMENT

THIS EASEMENT, made and entered into this _____ day of _____, 2019, and in CONSIDERATION of the good faith performance by each party of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, I/we, The City of Kent of 930 Overholt Street, Kent, Ohio 44240, the Landowner(s) of the SUBJECT PROPERTY, herein called "Grantor", hereby grants, conveys and warrants unto The East Ohio Gas Company, d/b/a Dominion Energy Ohio, an Ohio Corporation located at 1201 East 55th Street, Cleveland, Ohio, 44103, herein called "Grantee", its successors and assigns, the perpetual right to enter on the Subject Property described, at any time that it may see fit, and construct, maintain, operate, inspect, conduct necessary tests, repair, replace parallel to, connect to, change the size of, abandon in place, and remove underground pipeline(s), including meters, valves, cathodic protection equipment and other appurtenances necessary thereto, all of which shall be and remain the property of Grantee, for the transmission of natural gas and all by-products thereof, over, across, through, and under the lands described in this agreement, together with the right to excavate and refill ditches and trenches for the location of such pipeline, and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction and maintenance of the pipelines, with rights of ingress and egress to said facilities and appurtenances at all times, on the following described land, being the SUBJECT PROPERTY.

SUBJECT PROPERTY

Situated in Section/Lot 25 of Franklin District/Township, County of Portage, and State of Ohio, and containing 1.1338 acres, more or less.

Tax Parcel No.: 17-025-10-00-080-000 Routing/Map Reference _____

Deed Reference: Instrument # 201711244, or Book / Volume OR _____ Page _____.

The pipeline laid pursuant to this agreement is to be located within the limits of an easement of a width deemed necessary by the Grantee. Said Easement Area being granted is further described as being a strip of land twenty (20) feet in width, and further described in Exhibit "A", attached hereto and made a part hereof.

TEMPORARY CONSTRUCTION EASEMENT. In addition to the right of way area defined above, Grantor grants Grantee an additional temporary easement _____ feet wide, for the purpose of enabling Grantee to construct and operate the pipeline more efficiently. Grantee shall pay for any damage as set out in the paragraph below entitled "PAYMENT FOR DAMAGE"

The Grantor may use and enjoy the SUBJECT PROPERTY, subject to the conditions, restrictions, and provisions of this *GAS PIPELINE EASEMENT*, expressed and implied, and provided always that such use and enjoyment shall not interfere or be inconsistent in any way with rights, privileges and uses herein granted to the Grantee. Grantor shall not construct or permit to be constructed any house, structure, or obstruction on or over said easement area that will interfere with the construction, maintenance or operation of the pipeline or appurtenances constructed hereunder.

PAYMENT FOR DAMAGE. The Grantee shall repair, replace, or compensate the Grantor for any harm or damages that the Grantee inflicts upon the Grantor's existing property and/or improvements [such as but not limited to drain tile, fences, driveways, walks, buildings] in the process of the Grantee exercising any of its herein declared rights upon the SUBJECT PROPERTY. Excepted from Grantee's liability to repair, replace or compensate the Grantor for damages, is harm that the Grantee might inflict upon the land by maintenance, or harm to the Grantor's improvements classified herein as easement

violation(s). The Grantee shall compensate the Grantor for any damages it inflicts upon crops, regardless of whether the crops were damaged by the Grantee in or outside of Grantee's easement area.

ARBITRATION OF DAMAGE. In case of unresolvable dispute or claim between Grantor and Grantee, regarding the PAYMENT FOR DAMAGE clause above, EXCEPTING issues pursuant to violations of Local, State, or Federal codes, regulations, and/or laws, the Grantor and Grantee agree to use the method of BINDING ARBITRATION to settle the dispute or claim, in accordance with and pursuant to the latest Commercial Arbitration Rules of the American Arbitration Association. There shall be three disinterested arbitrators, one chosen by the Grantor, one chosen by the Grantee, and one mutually appointed by the two first chosen arbitrators, to ascertain and determine a settlement of the dispute or claim. The arbitrators' award shall be final. Whatever the conclusion, both Grantor and Grantee will be responsible to pay one half of the total arbitration costs. With respect to any controversy, claim, or dispute that is subject to arbitration under the terms herein, no suit at law or in equity based in an arbitrable dispute or controversy will be instituted by either party, except to enforce the award of the arbitrators. Should any party herein institute any suit contravention of the terms herein, that party shall bear the cost of any reasonable attorney fee and court costs incurred by the other party.

This *GAS PIPELINE EASEMENT* is perpetual and shall extend to and be binding upon the Grantor and Grantee, their respective heirs, successors and assigns, whether assigned in whole or in part, and can not be changed in any way except in writing signed by the Grantor and Grantee.

ENTIRE AGREEMENT. It is mutually agreed that this instrument contains and expresses all the agreements and understandings of the parties in regard to the subject matter hereof, and no implied covenant, agreement or obligation shall be read into this Easement or imposed upon the parties of either of them.

IN WITNESS WHEREOF, Grantor(s) hereby acknowledge that he/she/they understand and agree to all the contents, terms, conditions, restrictions, and effects of this instrument and grant this *GAS PIPELINE EASEMENT*, by executing this document in Portage County, on the _____ day of _____, 2019.

GRANTOR

sign _____
print _____
Title _____

sign _____
print _____
Title: _____

STATE OF Ohio)
)SS
COUNTY OF Portage)

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named _____ of _____ who acknowledged that he/she/they did sign the foregoing instrument, and that it was a free act and deed of said Company and that of himself/herself/themselves as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal in _____, _____ on the _____ day of _____, 2019.

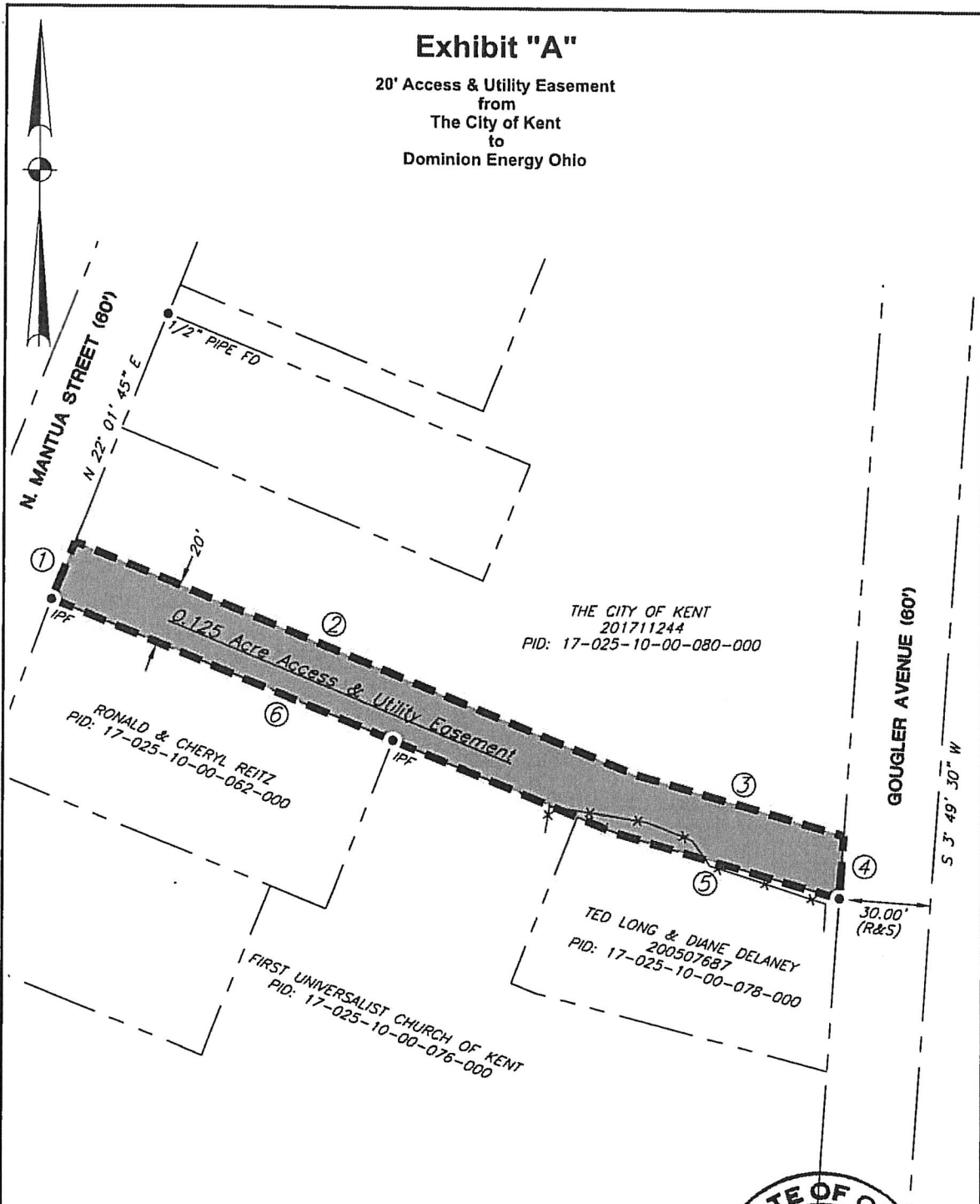
My Commission expires: _____
Notary Public

Ohio Law requires all parties to contact OHIO811 Before You Dig. Call 811 (or 1-800-362-2764) at least 48 hours but not more than 10 working days before digging or excavating. ORC - 3781.28 A&B

This Instrument Was Prepared By:
Dominion Energy Ohio, February 2019

Exhibit "A"

20' Access & Utility Easement
from
The City of Kent
to
Dominion Energy Ohio



Description of a 0.125 Acre Access & Utility Easement

Situated in the City of Kent (Formerly Franklin Township), County of Portage and State of Ohio:
Being a part of Original Lot 25, Original Franklin Township and being part of a 1.1338 acre parcel as conveyed to The City of Kent as recorded in Instrument #201711244 of the Portage County Daed Records and being more particularly described as follows:

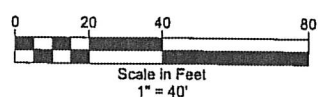
Beginning at a 5/8" bar found at the southwest corner of said City of Kent parcel, said point being the TRUE PLACE OF BEGINNING of the Easement;

- 1) Thence N 22° 01' 45" E along the west line of said City of Kent parcel which is the east line of North Mantua Street, a distance of 20.00 feet to a point;
- 2) Thence S 67° 54' 30" E, a distance of 197.19 feet to a point;
- 3) Thence S 74° 10' 05" E, a distance of 71.42 feet to a point;
- 4) Thence S 3° 49' 30" W along the east line of said City of Kent parcel, which is the west line of Gougler Avenue, a distance of 20.45 feet to a Pearson bar found;
- 5) Thence N 74° 10' 05" W, a distance of 76.76 feet to a point;
- 6) Thence N 67° 54' 30" W, a distance of 198.26 feet to the TRUE PLACE OF BEGINNING and containing 0.125 acres of land, more or less, as determined by David Bodo & Associates, Inc. in June, 2019, but subject to all legal highways and any easements, restrictions or reservations of record.

The Basis of Bearing for this survey was based on Grid North (Ohio State Plane Coordinate System, North Zone, NAD 83) as determined from GPS observations made in June, 2019 by David Bodo & Associates, Inc.



Ronald C. Hinton
Ronald C. Hinton, P.S. 6270



Prepared by:
David Bodo & Associates, Inc.
Professional Surveyors
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Carrollton, Ohio 44615 (330) 863-2300