

ORDINANCE NO. 37, 2018

AN ORDINANCE AUTHORIZING THE GRANTING OF AN EASEMENT TO DUKE ENERGY ON VILLAGE OF ST. BERNARD-OWNED REAL PROPERTY PARCEL NUMBER 582-0013-0177 KNOWN AS THE ST. BERNARD SAFETY CENTER AT 4200 VINE STREET FOR THE PURPOSE OF ENABLING DUKE TO INSTALL A SUBSTATION; AND DECLARING AN EMERGENCY.

WHEREAS, Duke and the Village desire to create a new easement for Duke Energy to add the necessary electric facilities and gas facilities on the property; and

WHEREAS, the Village Service Director, being the officer having the supervision and management of the property has advised Council that the Easement would not be adverse to the interest in the property retained by the Village and has recommended the Easement be granted in favor of Duke Energy; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, HAMILTON COUNTY, OHIO, AS FOLLOWS:

SECTION 1: That the granting of the Easement to Duke Energy, in substantially the form of the "Grant of Easement" document attached hereto, on real property belonging to the Village of St. Bernard will not be adverse to the interest in the property retained by the Village.

SECTION 2: That the Service Director, being the officer having custody, supervision and management of the property, is hereby authorized to execute the Grant of Easement document in substantially the form attached hereto.

SECTION 3: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reason for the emergency is the need for Duke Energy to install a substation to monitor gas and electric services in the area. Therefore, this Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided by law if approved by no more than the majority of the members of Council, and in that event, the emergency provisions herein are set at naught.

Passed this 8th day of November, 2018.

Steve Aslach

President of Council

ATTEST:

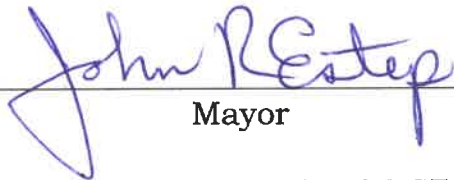
M. Sue Rathman

Clerk of Council

 ORIGINAL

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Approved this 8th day of November, 2018.




Mayor

I, M. SUE KATHMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 37, 2018, was made by posting true copies of the same in the most public places designated by Council: St. Bernard Square Bus Stop; Vine Street and Washington Avenue; Bertus Street Park; Greenlee Avenue and Johnson Alley; Park on Heger Drive; each for a period of fifteen (15) days or more commencing 11/8, 2018.

ATTEST:  DATE 11.8.18

Clerk of Council

Approved as to form  Date 11.8.18

Director of Law

GRANT OF EASEMENT

Pt. Parcel # 582-0013-0177

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, **VILLAGE OF ST. BERNARD, OHIO, an Ohio municipal corporation** (hereinafter referred to as "Grantor"), hereby grant(s) unto **DUKE ENERGY OHIO, INC.**, an Ohio corporation, with a mailing address of 139 East Fourth Street, Cincinnati, OH 45202, and its successors and assigns (hereinafter referred to as "Grantee"), a perpetual, non-exclusive easement, to construct, reconstruct, operate, patrol, maintain, repair, replace, relocate, add to, modify and remove, an underground gas line or lines including but not limited to, all necessary and convenient equipment such as underground ducts, conduits, wires, cables, manholes, pipes, grounding systems, surface equipment (including, but not limited to, pressure regulating equipment) and all other appurtenances, fixtures and equipment (hereinafter referred to as the "Facilities") for the underground transportation of gas, in, upon, over, along, under, through and across the following described real estate:

Situate in Section 16, Township 3, Fractional Range 2, Millcreek Township, Hamilton County, State of Ohio being part of Lot No. 1 of Herman J. Wittes Subdivision of part of the Brown Tract as recorded in Plat Book 12, Page 11 in the Office of the Recorder of Hamilton County of Ohio as conveyed to **VILLAGE OF ST. BERNARD, OHIO**, from **STEVEN E. HADSELL** and **STACEY HADSELL** by General Warranty Deed dated September 8, 2014 and recorded in **Official Record 12700, Page 01073** in the Office of the Recorder of Hamilton County of Ohio (hereinafter referred to as "Grantor's Property").

Said easement being that area indicated, relative to landmarks and property lines, shown on a drawing marked "Exhibit A" attached hereto and hereby made a part hereof (hereinafter referred to as the "Easement Area").

This easement grant shall include, but not be limited to, the following respective rights and duties of Grantor and Grantee:

1. Grantee shall have the right of ingress and egress over the Easement Area, and over the adjoining land of Grantor's Property (using lanes, driveways, and adjoining public roads where practical as determined by Grantee).
2. Grantee shall have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs,

overhanging branches, and/or other vegetation upon or over the Easement Area. Grantee shall also have the right to cut down, clear, trim, remove, and otherwise control any trees, shrubs, overhanging branches, and/or other vegetation which are adjacent to the Easement Area but only to the extent such vegetation may endanger, as reasonably determined by Grantee, the safe or reliable operation of the Facilities, or where such vegetation is trimmed consistent with generally accepted arboricultural practices.

3. To the best of Grantor's knowledge, the Easement Area and the adjoining land of Grantor's Property have never been used to release, discharge, generate or store any toxic, hazardous, corrosive, radioactive or otherwise harmful substance or material.

4. Grantor shall not place or permit the placement of, any obstructions, which may interfere with the exercise of the rights granted herein to Grantee. Grantee shall have the right to remove any such obstruction.

5. Grantee shall have the right to pile dirt and other material and to operate equipment upon the surface of the Easement Area and the adjoining land of Grantor's Property, *but only* during those times when Grantee is constructing, reconstructing, maintaining, repairing, replacing, relocating, adding to, modifying, or removing the Facilities.

6. Excluding the removal of vegetation and obstructions as provided herein, any physical damage to the surface area of the Easement Area and the adjoining land of Grantor's Property resulting from the exercise of the rights granted herein to Grantee, shall be promptly paid by Grantee, or repaired or restored by Grantee to a condition which is reasonably close to the condition it was in prior to the damage, all to the extent such damage is caused by Grantee or its contractors or employees. In the event that Grantee does not, in the opinion of Grantor, satisfactorily repair any damage, Grantor must, within ninety (90) days after such damage occurs, file a claim for such damage with Grantee at (a) 139 East Fourth Street, Cincinnati, OH 45202, Attn: Right of Way Services, or (b) by contacting an authorized Right of Way Services representative of Grantee.

7. Grantor shall have the right to use the Easement Area and the adjoining land of Grantor's Property in any manner which is consistent with the rights granted herein to Grantee, and shall comply with all applicable codes when making use of the land near the Facilities.

8. Notwithstanding anything to the contrary contained herein, Grantor shall not without the prior written consent of Grantee (a) construct or install, or permit the construction or installation of any building, house, or other above-ground structure, or portion thereof, upon the Easement Area; or (b) excavate or place, or permit the excavation or placement of any dirt or other material upon or below the Easement Area; or (c) cause, by excavation or placement of material either on or off the Easement Area, a pond, lake, or like retention or detention of water to be established in the Easement Area.

9. Grantor warrants that it has the necessary authority and title to Grantor's Property to grant this easement to Grantee, and shall defend and hold Grantee harmless from the claim of any third party that Grantor does not have such authority or title.

10. The respective rights and duties herein of Grantor and Grantee shall inure to the benefit of, and shall be

binding upon the respective successors, assigns, heirs, personal representatives, lessees, licensees, and/or tenants of Grantor and Grantee. Easement, Grantor and Grantee, as used herein, shall be deemed to be plural, when required to be so. The exercise of any or all of the rights and privileges of Grantee set forth herein, shall be at the sole discretion of Grantee.

[Signature page(s) follow.]

EXHIBIT "A"
EASEMENT AREA TO BE GRANTED TO DUKE ENERGY

Situated in the Township of Millcreek, Village of St. Bernard, County of Hamilton, State of Ohio in the Symmes Purchase, Fractional Range Two (2), Township Three (3), Section 16, and being part of a parcel of land conveyed to the Village of St. Bernard, by deed of record in Official Record 12700 at page 1073 (TPN: 582-0013-0177-00), and designated as Lot 1 of Herman J. Witte's Subdivision of the Brown tract in the Village of St. Bernard as recorded in Plat book 12 Page 11 of the Hamilton County Recorder's Office, Hamilton County, Ohio. The Easement Area being located on the northerly side of said tract and more particularly described as follows:

Commencing at a 1"x1" square bar found at the northeast corner of said Lot 1 and the southeast corner of a parcel conveyed to the Province of St. John the Baptist of the Order of Friars Minor by deed of record in Official Record 12701 at page 00175 (TPN- 582-0013-0258-00);

Thence along a line common to said Lot 1 and said "Province" parcel, North 76 degrees 26 minutes 00 seconds West, a distance of 20.39 feet to a point to the **Point Of Beginning**;

Thence crossing through said Lot 1, South 13 degrees 34 minutes 00 seconds West, a distance of 10.00 feet to a point;

Thence continuing through said Lot 1, North 76 degrees 26 minutes 00 seconds West, a distance of 105.79 feet to a point on the easterly Right of Way line of Vine Street (60' wide);

Thence along said easterly Right of Way, North 18 degrees 04 minutes 00 seconds East, a distance of 10.03 feet to the northwest corner of said Lot 1 and the southwest Corner of said "Province" parcel;

Thence along said common line, South 76 degrees 26 minutes 00 seconds East, a distance of 105.00 feet to the **Point Of Beginning**. Containing 1,053.87 square feet or 0.024 acres, more or less.

The Basis of Bearings is based upon the Ohio State Plane Coordinate System, South Zone, NAD 83 (2011), utilizing satellite observations.

No monuments were set for any corners of the above described easement area.

Surveyor Certificate:

I hereby certify that this easement area description and the accompanying plat are based upon record information located at the Recorder's Office, Hamilton County, Ohio and a field survey performed by Surveying and Mapping, LLC., in October, 2018.

PRELIMINARY

Jeffrey C. Spontak, PS
Registered Surveyor No. 7856

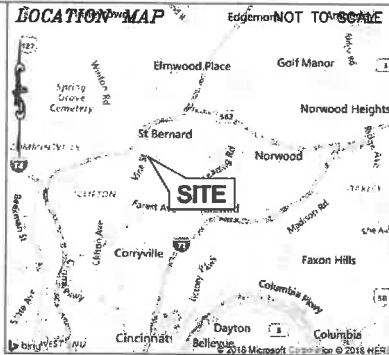
Date

Surveying and Mapping, LLC (SAM, LLC)
929 Eastwind Drive, Suite 201
Westerville, Ohio 43081
Phone: 614.899.0079
Fax: 614.374.2569

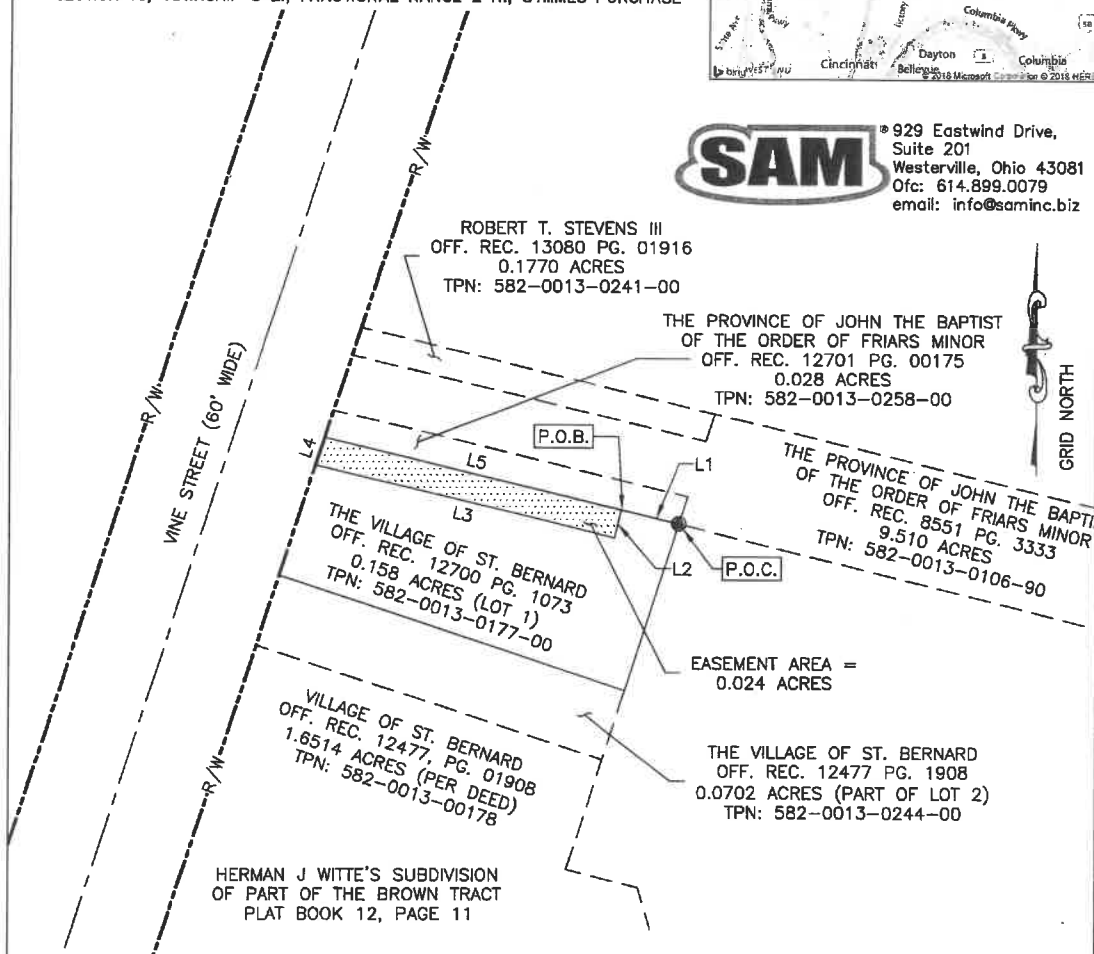
NOTES:

1. SURVEYED & MAPPED FOR: DUKE ENERGY
2. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
3. BEARINGS SHOWN HEREON ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83 (2011)
4. AREA BY COORDINATE COMPUTATION.
5. PROPERTY SUBJECT TO ANY VALID & ENFORCEABLE EASEMENTS, RESTRICTIONS & RIGHTS OF WAY OF RECORD.
6. SURVEY IS BASED ON PHYSICAL EVIDENCE AND EXISTING MONUMENTATION FOUND DURING THE SURVEY.
7. SECTION 16, TOWNSHIP 3 E., FRACTIONAL RANGE 2 N., SYMMES PURCHASE

EXHIBIT "A"



SAM 929 Eastwind Drive,
Suite 201
Westerville, Ohio 43081
Ofc: 614.899.0079
email: info@saminc.biz



LEGEND

- LINES SURVEYED
- - - LINES NOT SURVEYED
- - - TIE LINES
- CONCRETE MONUMENT FOUND
- 1"X1" SQUARE BAR FOUND
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- R/W RIGHT OF WAY LINE
- R.O.P. RATIO OF PRECISION

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N76°26'00"W	20.39'
L2	S13°34'00"W	10.00'
L3	N76°26'00"W	105.79'
L4	N18°04'00"E	10.03'
L5	S76°26'00"E	105.00'

I HEREBY CERTIFY THAT THIS MAP WAS PREPARED FOR THE LIMITED USE OF DUKE ENERGY FOR EASEMENT PURPOSES ONLY AND IS NOT INTENDED TO REPRESENT A COMPLETE SURVEY OF THE SUBJECT PROPERTY. ROAD RIGHT OF WAYS AND WIDTHS ARE PER HAMILTON COUNTY ENGINEER, PRIVATE SURVEYS AND DEEDS OF RECORD.

PRELIMINARY

JEFFREY C. SPONTAK, PS DATE
REGISTER SURVEYOR NO. 7856

FOR SOURCE OF TITLE REFER TO OFF. REC. 12700, PG. 01073

PERMANENT EASEMENT

EASEMENT ACROSS THE LAND OF
VILLAGE OF ST. BERNARD, OHIO

VILLAGE OF ST. BERNARD, HAMILTON COUNTY, O.H.

DATE: 10/10/18 SCALE: 1"= 50' LAND UNIT: 1707175
DRAWN BY: BJA R.O.P. = 1:10,000+ MAP: X



139 E 4TH STREET
CINCINNATI O.H. 45202
TELEPHONE NO. (800) 544-6900