

Encroachment Agreement

This Agreement, made this _____ day of _____, 2019 by **INDIANA GAS COMPANY, INC., an Indiana corporation doing business as Vectren Energy Delivery of Indiana, Inc.**, hereinafter referred to as “VEDI”, and the **Town of Whitestown, Indiana**, with a mailing address of **6210 Veterans Drive, Whitestown, IN. 46075** their successors and assigns hereinafter referred to as “**Grantee**”.

WITNESSETH:

That in consideration of compliance with the following terms and conditions and for other valuable consideration, VEDI has consented to the Grantee’s constructing and installing **site improvements** within VEDI’s natural gas pipeline easements and near its pipeline. This Agreement pertains to a **30’ wide gas pipeline easement, Instrument # 201400009368** and a **30’ wide gas pipeline easement, Instrument # 201400009370** as recorded in the Recorder’s office of **Boone County, IN.** and being located in the **NW ¼ of Section 30, Township 18 North, Range 2 East, in Worth Township**, of said county and state, and owned in fee by the Grantee.

This Agreement shall become binding and enforceable upon Grantee’s acceptance and performance of the following terms, conditions, and responsibilities:

1. Grantee shall indemnify, defend and hold harmless VEDI from and against any and all claims, costs, losses, suits or judgments, including attorneys’ fees, for damages, injuries to or death of persons, or damage to or destruction of property arising from or related to the construction, installation, maintenance, operation and/or removal of said encroachment and/or appurtenances, including, but not limited to any removal required by VEDI to access its facilities or to perform maintenance and/or to fulfill other operational needs within its easement.
2. This consent by VEDI is not intended as a waiver of rights nor as a release of Grantee from any obligation, restriction or encumbrance to which Grantee’s interest in the real estate is subject by virtue of any document including a deed, easement, lease, or plat, or by virtue of any governmental action including a statute, regulation, ordinance, permit, code or the statute of limitations with respect to adverse possession of the encroachment, which shall not begin until after this Agreement is terminated.
3. The encroachment shall not restrict or impair VEDI’s access to its facilities, weaken the integrity of VEDI’s facilities nor otherwise interfere with VEDI’s use of the easement.
4. This Agreement shall be binding upon, enforceable by and inure to the benefit of the Grantee, VEDI, and their respective heirs, personal representatives, successors and assigns.
5. Both parties shall comply with the provisions of Indiana Code § 8-1-26-1 et seq. relating to damage to underground facilities.
6. Should VEDI need to access its facilities for emergency maintenance, improvement or otherwise, Grantee shall hold VEDI harmless from any resulting damage or injury to owner’s encroachment, including all costs and expenses, with the exception of any damages or injuries to third parties which result from the sole negligence or willful misconduct of VEDI.
7. Grantee agrees to provide VEDI with a drawing and/or description of the proposed encroachment, which is attached hereto and incorporated by reference herein. Grantee understands and agrees that should the actual encroachment fail to conform with the approved proposed encroachment, VEDI has the right to require Grantee to modify or remove all or a portion of the encroachment at Grantee’s sole expense.

Encroachment Agreement

8. Grantee agrees that any future changes to the encroachment and/or its appurtenances, including additions, expansions, replacement and/or rebuilding will not be done within VEDI's easement.
9. Grantee agrees to exercise extreme caution in connection with the operation of construction equipment or machinery near any of VEDI's facilities in the installation, operation, and maintenance of its proposed facilities or encroachment.
10. In the event of the necessary removal of said encroachment and/or appurtenances by VEDI due to the operational need to conduct maintenance or repair work on said pipelines, restoration of said encroachment and/or appurtenances shall be at the expense of the Grantee and shall be subject to this Agreement.
11. Grantee agrees to construct the **site improvements** according to the plans for "**Town of Whitestown Main Street Park Phase #2 Site – Civil Whitestown, Indiana 2018**", **Project No.: 18-0049** as depicted on **Sheet #'s C201A, C201B, C202, C203, C300, C301, C302 and C308,**; dated **08/10/2018** and **Sheet # C200** originally dated **10/19/2018** and with a revised date of **01/17/2019** as provided by **Shrewsberry & Associates, LLC.**, which are incorporated herein by reference.
12. Grantee agrees that no trees will be planted within VEDI's easement area and no landscaping, shrubs or bushes shall be planted within 5' of the pipeline.
13. Grantee understands no vibratory compactor is to operate **with the drum vibrating** within 10' either side of the natural gas transmission pipeline.
14. Grantee understands that at no point during construction of the site improvements shall the transmission pipeline have less than **36"** of cover.
15. Grantee agrees to submit to VEDI, prior to construction, a list of all proposed heavy equipment specifications for a wheel load analysis and to comply with VEDI requirements resulting from the wheel load analysis to assure pipeline integrity.
16. Grantee agrees to maintain a minimum of 24 inches of vertical clearance between VEDI gas facilities and all foreign underground utility crossings.
17. Grantee understands no material stockpiling will be allowed in VEDI's easement area.
18. Grantee agrees to repair and restore the grade and vegetation within the easement area outside of approved encroachment to those conditions existing prior to construction.
19. Grantee agrees that if rutting occurs during construction, VEDI will be notified immediately to ensure the integrity of the pipeline.
20. Grantee further agrees to coordinate any work within the easement by calling the local VEDI Area Supervisor at **317-718-3630** at least 48 hours prior to commencing any work.
21. **This Agreement in no way grants consent for future encroachments.**

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The parties hereby indicate their understanding and acknowledgment of the terms and conditions contained herein by executing this Agreement where indicated below.

Town of Whitestown, Indiana

Signed by: _____, Grantee
Clinton Bohm, Town Council President

Before me, a notary public, in and for said County and State, personally appeared **Clinton Bohm, Town Council President**, who is personally known to me and acknowledged the execution of the foregoing Agreement to be his voluntary act and deed.

STATE OF **INDIANA**)
) ss: _____
COUNTY OF _____)

Witness my hand and notary seal this _____ day of _____, 2019.

(Signed) Notary Public

(Printed) Notary Public

My Commission expires _____

My County of Residence is _____

My Commission number is _____

