

UTILITY AND EMERGENCY ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the **CLAYTON COURT HOMEOWNERS ASSOCIATION, INC.**, (the "GRANTOR"), for and in consideration of certain good and valuable consideration and of Eight Hundred Eleven Dollars and Thirty Cents (\$811.30), the full receipt of all of which is hereby acknowledged, does hereby grant unto the **CITY OF HUDSON, OHIO** (the "GRANTEE"), and its lessees, licensees, successors and assigns forever, a perpetual, non-exclusive easement and right-of-way as described in Section 1 below (the "Easement") in, under, through, over, across and upon the Grantor's land, as described in Section 2 below (the "Grantor's Land").

1. Description of the Easement. The easement granted by the Grantor to the Grantee consists of a perpetual non-exclusive easement and right-of-way (the "Easement"), with the right, privilege, and authority to:

(A) Construct, reconstruct, relocate, extend, repair, replace, maintain, operate, inspect, patrol, and, at its pleasure, abandon or remove, both aboveground and underground:

- a. electric distribution or transmission facilities;
- b. gas distribution or transmission facilities (however, no pipeline for gas transmission shall be in excess of a twenty-four (24) inch diameter without the prior written consent of the Grantor);
- c. telephone and other telecommunications and/or communications facilities (including broadband internet and other similar communications facilities);
- d. water supply or distribution facilities;
- e. stormwater management facilities; and
- f. sanitary sewer facilities, manholes, force mains, pump stations, and appurtenances

(collectively, the "Facilities"), which the Grantee shall require now and from time to time, for purposes of construction, repair, replacement, maintenance, inspection, and survey of said Grantee's Facilities and appurtenances, by any means, whether now existing or hereafter devised, for public or private use, in, upon, over, under,

and across that portion of the Grantor's Land described and depicted in Section 3 below (the "Easement Area"), and to renew, replace, add to, and otherwise change the Facilities and each and every part thereof and the location thereof within the Easement Area, and utilize the Facilities within the Easement Area as well as the right of Grantee to access and traverse the Easement Area for public safety purposes including access of the Easement Area by public safety agencies for the purpose of Police, Fire, and Emergency Medical Service operations (the foregoing, hereinafter, the "Easement"). Before clearing any portion of the Easement Area or removing any trees from the Easement Area, Grantee shall provide Grantor with seven (7) days prior written notice.

(B) From time to time, without further payment therefor, clear and keep cleared, by physical, chemical, or other means, the Easement Area of any and all trees, vegetation, roots, aboveground or belowground structures, improvements, or other obstructions and trim and/or remove other trees, roots and vegetation adjacent to the Easement Area that, in the opinion of Grantee, may interfere with the construction, operation, and maintenance of the Facilities or Grantee's use of the Easement Area. The first clearing may be for less than the full width and may be widened from time to time to the full width.

(C) Excavate or change the grade of the Grantor's Land as is reasonable, necessary, and proper for any and all purposes described in this Section 1; provided, however, that the Grantee will, upon completion of their work, backfill and restore any excavated areas to reasonably the same condition as existed prior to such excavation.

(D) Pass and repass along the Easement Area to and from the adjoining lands and pass and repass over, across, and upon the Grantor's Land to and from the Easement Area, and construct, reconstruct, relocate, use, and maintain such footbridges, causeways, and ways of access, if any, thereon, as is reasonable and necessary in order to exercise to the fullest extent the Easement.

2. Description of Grantor's Land. Grantor is the fee simple owner of certain land located in the City of Hudson, County of Summit and State of Ohio, designated as Parcel No. 3203880 and more particularly described as set forth in Exhibit A attached hereto and made a part hereof.

3. Location of the Easement Area. The Easement Area shall consist of a portion of the Grantor's Land. The general location of the Easement Area is shown on the depiction of the Easement Area which depiction is attached hereto as Exhibit B and recorded herewith, copies of which are in the possession of the Grantor and the Grantee. The final and definitive location(s) of the Easement Area shall become established by and upon the final installation and erection of the Facilities by the Grantee in substantial compliance with Exhibit B hereto. The Easement Area is legally described on Exhibit C attached hereto and incorporated herein.

4. Facilities Ownership. It is agreed that the Facilities shall remain the property of the Grantee, its successors and assigns.
5. General Provisions. The Grantor, for itself, its heirs, legal representatives, successors, and assigns, hereby covenants and agrees with the Grantee that no act will be permitted within the Easement Area which is inconsistent with the Easement hereby granted; no buildings or structures, or replacement thereof or additions thereto, swimming pools, or obstructions will be erected or constructed above or below grade within the Easement Area; no trees shall be grown, cultivated, or harvested, and no excavating, mining, or blasting shall be undertaken within the Easement Area without the prior written consent of the Grantee, it being the intent that the Easement herein conveyed is intended to prohibit the longitudinal or parallel use or occupancy of said Easement Area by surface or subsurface activities or structures which might damage or interfere with the Facilities; the Easement shall not be modified nor the Easement Area relocated by the Grantor without the Grantee's prior written consent; the present grade or ground level of the Easement Area will not be changed by excavation or filling.

Grantee acknowledges the existence of a prior "Non-Drilling – Non-Development Oil and Gas Lease" between Grantor and BEN Energy, LLC & Summit Petroleum, Inc. recorded as Instrument No. 55626745 of Summit County Records on May 29, 2009 (hereinafter, the "Oil and Gas Lease"). The provisions of this Easement shall not interfere with or supersede the provisions of the Oil and Gas Lease. In the event of a conflict between the Oil and Gas Lease and provisions of this Easement, the provisions of the Oil and Gas Lease shall control.

6. Grantee Rights Beyond Easement Area. Grantee shall have the right to cut, remove and dispose of dead, diseased, weak or leaning trees (hereinafter referred to as "danger trees") on lands of the Grantor adjacent to the Easement Area which may now or hereafter strike, injure, endanger or interfere with the maintenance and operation of any of the Facilities, provided that on future cutting of such danger trees, timber so cut shall remain the property of the Grantor. Grantor shall notify Grantee of any party with whom Grantor contracts and who owns as a result thereof any danger trees to be cut as set forth above. Grantee shall also have the right to conduct scientific or other studies, including but not limited to environmental and archaeological studies, on or below the surface of the Easement Area. Before removing any trees or removing substantial branches or substantial portions of any tree, Grantee shall provide Grantor with seven (7) days prior written notice.
7. Warranty of Title. The Grantor hereby warrants the title to the rights above granted and that the same are free and clear of all liens and encumbrances, and that the Grantor will execute or procure any further necessary assurance of the title to said premises as may be required by the Grantee.

8. Assignment. The Grantee, together with their successors and assigns, with prior written consent from Grantor (which consent shall not be unreasonably withheld) are hereby expressly given and granted the right to assign this Easement, or any part thereof, or interest therein, and the same shall be divisible between or among two or more owners, as to any right or rights created hereunder, so that each assignee or owner shall have the full right, privilege, and authority herein granted, to be owned and enjoyed either in common or severally. This grant of Easement shall at all times be deemed to be and shall be a continuing covenant running with the Grantor's Land and shall inure to and be binding upon the successors, heirs, legal representatives, and assigns of the parties named in this grant of Easement.

9. Governing Law. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO. EACH PARTY HERETO AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE TRIED AND LITIGATED IN STATE OR FEDERAL COURTS LOCATED IN THE STATE OF OHIO, UNLESS SUCH ACTIONS OR PROCEEDINGS ARE REQUIRED TO BE BROUGHT IN ANOTHER COURT TO OBTAIN SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE EXTENT PERMITTED BY LAW, EACH PARTY HERETO IRREVOCABLY WAIVES ANY RIGHT ANY PARTY HERETO MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS, TO ASSERT THAT ANY PARTY HERETO IS NOT SUBJECT TO THE JURISDICTION OF THE AFORESAID COURTS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS ARTICLE.

10. Notice. Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "**Notice**") in writing and addressed to the other Party at its address set out below (or to any other address that the receiving Party may designate from time to time). Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees pre-paid), , email, or certified or registered mail (in each case, return receipt requested, postage prepaid and with a copy of said certified or registered mail notice also sent via regular U.S. mail). Except as otherwise provided in this Agreement, a Notice is effective only: (a) upon receipt by the receiving party and (b) if the party giving the Notice has complied with the requirements of this Section.

To Grantor (Clayton Court Homeowners Association Inc):	Name:
	Address:
	Telephone
	Facsimile:

with a copy to: Email:
Name:
Address:
Telephone
Facsimile:
Email:

To Grantee (City of Hudson, Ohio): Name:
Address:
Telephone
Facsimile:
Email:

with a copy to: Name:
Address:
Telephone
Facsimile:
Email:

11. Amendment. This Agreement may not be modified, amended, or terminated except in a writing signed by each party hereto.
12. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument. A signed copy of this Agreement delivered by facsimile or email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.
13. Authority. Both parties represent and warrant that they have the authority to execute this Agreement and each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

14. Further Cooperation. Each of the signatories to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this agreement.

The remainder of this page is intentionally left blank with signatures to follow on the next two (2) pages.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the _____ day of _____, 2020.

GRANTOR:

CLAYTON COURT HOMEOWNERS ASSOCIATION INC

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF OHIO)
) SS:
COUNTY OF SUMMIT)

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

Before me, a Notary Public, in and for said County and State, personally appeared _____, the _____ of the **Clayton Court Homeowners Association Inc** who states that he/she is duly authorized to execute the foregoing instrument, and that he/she acknowledges his/her signature to be his/her free act and deed on behalf of the **Clayton Court Homeowners Association Inc**.

IN TESTIMONY WHEREOF, I have set my hand and official seal at _____, Ohio, this _____ day of _____, 2020.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

GRANTEE:

THE CITY OF HUDSON, OHIO

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF OHIO)
) SS:
COUNTY OF SUMMIT)

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

Before me, a Notary Public, in and for said County and State, personally appeared **Jane Howington**, the **City Manager** of the **City of Hudson, Ohio** who states that she is duly authorized to execute the foregoing instrument, and that she acknowledges her signature to be her free act and deed on behalf of the **City of Hudson, Ohio**.

IN TESTIMONY WHEREOF, I have set my hand and official seal at _____, Ohio, this _____ day of _____, 2020.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

This instrument prepared by:

Matthew J. Vazzana, Esq.
City Solicitor
City of Hudson
1140 Terex Road
Hudson, Ohio 44236

Exhibit A

Legal Description of Grantor's Land

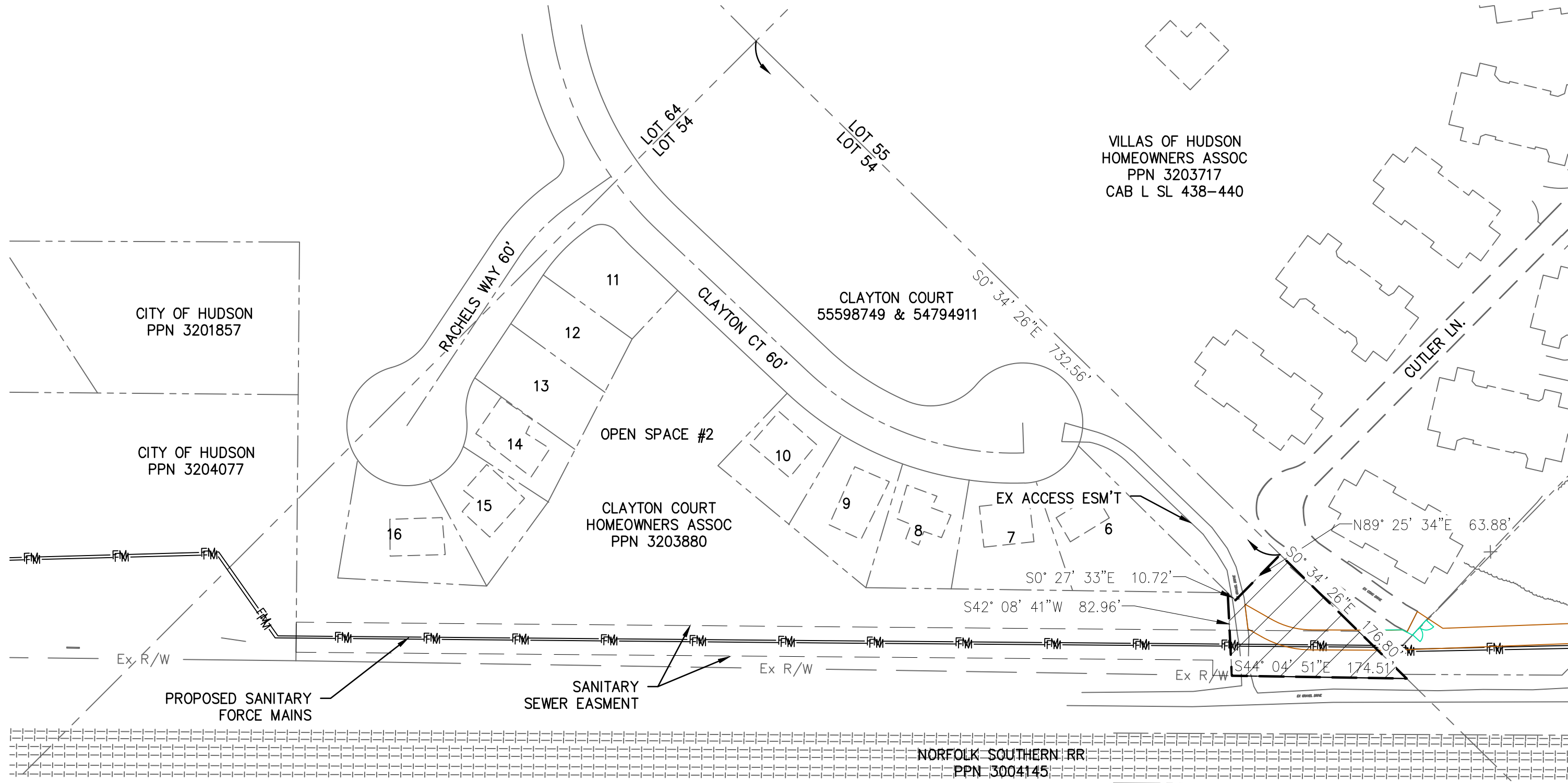
Situated in the City of Hudson, County of Summit and State of Ohio:

A 5.3690 acre area indicated as Private Open Space #2 as recorded December 13, 2020 on the plat of Clayton Court, Document No. 54794911, Pages 1,2, and 3: Parcel No. 32-03880 (HU-00017-A2002.000)

Exhibit B

Depiction of Easement Area

EXHIBIT 17-00257-020 FIRST & MAIN SITE DESIGN PERMITS/DSSS EXHIBITS.DWG - 3/13/2020 1:03:16 PM



VILLAS OF HUDSON
 HOMEOWNERS ASSOC
 PPN 3203717
 CAB L SL 438-440

CITY OF HUDSON
 PPN 3201857

CITY OF HUDSON
 PPN 3204077

CLAYTON COURT
 HOMEOWNERS ASSOC
 PPN 3203880

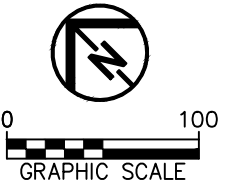
CLAYTON COURT
 55598749 & 54794911

NORFOLK SOUTHERN RR
 PPN 3004145

PROPOSED SANITARY
 FORCE MAINS

SANITARY
 SEWER EASEMENT

EASEMENT AREA
 12526 SF, 0.2875 AC



GRAPHIC SCALE

Environmental Design Group
 AKRON / CLEVELAND / COLUMBUS
 HQ 450 GRANT ST., AKRON, OH 44311
 P 330.375.1390 / TF 800.835.1390
 W ENVDESIGNGROUP.COM

UTILITY AND EMERGENCY ACCESS EASEMENT
 CLAYTON COURT HOMEOWNERS ASSOCIATION

TO: CITY OF HUDSON
 HUDSON, OHIO

Exhibit C

Legal Description of Easement Area



EXHIBIT _____
ACCESS EASEMENT
Clayton Court HOA
TO
City of Hudson

Situated in the City of Hudson, County of Summit, State of Ohio and known as being part of Private Space 2 as appears on the Plat for Clayton Court as recorded with Reception N° 54794911 of Summit County Records and being more fully described as follows:

Beginning at the northeast corner of original Hudson Township Lot N° 54;

Thence S 00° 34' 26" E, along the east line of said Lot N° 54, 732.56 feet to the True Place of Beginning for the easement area intended to be described herein and also being the southeast corner of an existing Access Easement as appears on said Clayton Court Plat;

Thence S 00° 34' 26" E, along the said east line of Lot N° 54, 176.80 feet to the southeast corner of said Clayton Court;

Thence N 44° 04' 51" W, along the south line of said Clayton Court and also the north line of Norfolk Southern Railroad Lands, 174.51 feet;

Thence N 42° 08' 41" E, 82.96 feet to the southwest corner of said existing Access Easement;

Thence S 00° 27' 33" E, 10.72 feet;

Thence N 89° 25' 34" E, along the south line of said Access Easement, 63.88 feet to the True Place of Beginning and containing 0.2875 acres of land as determined by Robert J. Warner, P.S. 6931 for Environmental Design Group in March 2020.

Bearings are based on Grid North in the Ohio State Plane Coordinate System NAD83(2011).

CORPORATE
450 Grant Street / Akron, OH 44311
P 330.375.1390 / F 330.375.1590
TF 800.835.1390

CLEVELAND OFFICE
2800 Euclid Avenue, Suite 620
Cleveland, Ohio 44115

COLUMBUS OFFICE
88 East Broad Street, Suite 880
Columbus, Ohio 43215

envdesigngroup.com