

UTILITY AND EMERGENCY ACCESS EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the **VILLAS OF HUDSON HOMEOWNERS' ASSOCIATION**, (the "GRANTOR"), for and in consideration of certain good and valuable consideration and of One Thousand Five Hundred Dollars (\$1,500.00), 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;
- 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").

- (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, at Grantee's sole cost, 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. Any damage Grantee causes to the Easement Area or other areas of Grantor's property will be restored within thirty (30) calendar days of completing the work being performed on the Facilities that led to the damage. If Grantee fails to replace the cut or removed items within thirty (30) calendar days, Grantor may replace the cut or removed item and Grantee agrees to reimburse Grantor for the replacement item and the work to install them.
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. 3203717 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.

Outside of an emergency that necessitates Grantee obstructing a member of Grantor from accessing their home, Grantee will not obstruct any member of Grantor from accessing their home. After the initial installation of Facilities, Grantee will provide at least seventy-two (72) hours notice before using the Easement Area for non-emergency work. In the event of an emergency, Grantee shall not be required to provide Grantor prior notice before using the Easement Area, but shall attempt to notify Grantor of Grantee's emergency use of the Easement Area as soon as is reasonably practicable. Grantee shall be responsible for all fees relative to the recording of this Easement.

If Grantee, in its sole and absolute discretion (and subject to receipt of prior approval by the Hudson City Council), installs a paved fire access driveway through the Easement Area to connect to Grantor's existing fire access drive that abuts the Easement Area, then Grantee shall be responsible for the costs associated with installing and connecting said paved fire access driveway to Grantor's existing fire access driveway that abuts the Easement Area. Grantor understands and agrees that Grantee shall not be responsible for the costs and/or work associated with any improvements to Grantor's existing fire access driveway that is located outside of the Easement Area. Grantor further agrees and understands that nothing in this paragraph is intended to, or shall operate as, an obligation (or a condition on the granting of this Easement or the rights/responsibilities granted herein) on Grantee to install a fire access driveway (or similar access drive, paved or otherwise) at any point in time in or around the Easement Area.

If Grantee use or activity of the Easement Area directly damages or disturbs any of the Grantor's fencing and/or gates such that replacement fencing and/or gates must be installed within the Easement Area (in the opinion of the Grantee), Grantee shall match, as best as is possible, any replacement fencing and/or gates to the Grantor's existing fencing and/or gates.

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.

6. 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.
7. Assignment. The Grantee, together with their successors and assigns, 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.
8. 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.

9. 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), facsimile, email, or certified or registered mail (in each case, return receipt requested, postage prepaid). 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 (Villas of Hudson Homeowners Association):

Name:
Address:
Telephone
Facsimile:
Email:

with a copy to:

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:

10. Amendment. This Agreement may not be modified, amended, or terminated except in a writing signed by each party hereto.
11. 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.
12. 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.
13. 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.
14. Exoneration. All agreements of performance on the part of the signatory(ies) for Grantor are agreements to pay and perform out of funds of Grantor. No signatory for Grantor assumes, nor is he or she under, any personal liability or obligation by reason 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:

VILLAS OF HUDSON HOMEOWNERS ASSOCIATION

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 **Villas of Hudson Homeowners Association** 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 **Villas of Hudson Homeowners Association**.

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

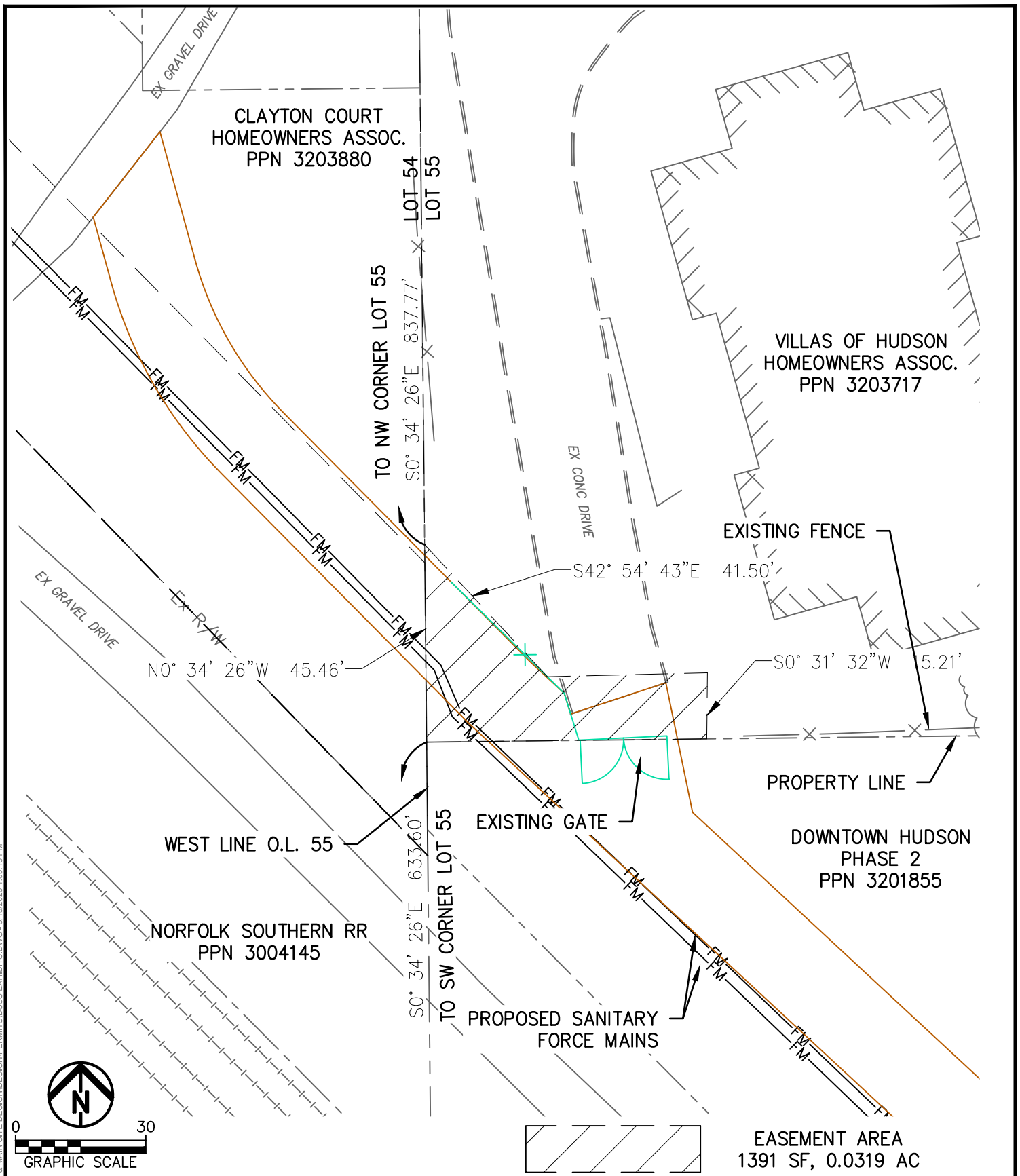
Legal Description of Grantor's Land

Situated in the City of Hudson, County of Summit and State of Ohio and known as being Common Area in Villas of Hudson Subdivision of part of Original Hudson township Lot 55 as shown by the recorded Plat in Cabinet L, Slides 438-440 and re-recorded in Cabinet N, Slides 291-293 of Summit County Map Records, be the same more or less, but subject to all legal highways.

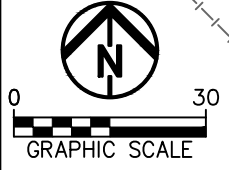
Exhibit B

Depiction of Easement Area

E:\TESTA COMPANIES\17-00257-200 FIRST & MAIN SITE DESIGN\DESIGN PERMITS\SUBSSS EXHIBITS.DWG - 3/13/2020 1:05:18 PM



EASEMENT AREA
1391 SF, 0.0319 AC



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/EMERGENCY ACCESS EASEMENT
 VILLAS OF HUDSON
 TO: CITY OF HUDSON
 HUDSON, OHIO

Exhibit C

Legal Description of Easement Area



EXHIBIT _____
EMERGENCY ACCESS EASEMENT
Villas of Hudson
TO
City of Hudson

Situated in the City of Hudson, County of Summit, State of Ohio and known as being part of the Villas of Hudson Lands as appears on the Plat recorded in Plat Cabinet L Slides 438-440 of Summit County Records and being more fully described as follows:

Beginning at the northeast corner of original Hudson Township Lot N° 55;

Thence S 00° 34' 26" E, along the west line of said Lot N° 55, 837.77 feet to the True Place of Beginning for the easement area intended to be described herein;

Thence S 42° 54' 43" E, 41.50 feet;

Thence N 88° 36' 37" E, 36.85 feet;

Thence S 00° 31' 32" W, 15.21 feet to the south line of said Villas of Hudson Lands;

Thence S 89° 20' 20" W, along the said south line of Villas of Hudson lands, 64.51 feet to the west line thereof;

Thence N 00° 34' 26" W, along the west line of said Villas of Hudson lands and Lot N° 55, 45.46 feet to the True Place of Beginning and containing 0.0319 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