

A RESOLUTION AUTHORIZING THE MAYOR AND THE DIRECTOR OF FINANCE TO ENTER INTO AN EASEMENT AGREEMENT WITH TRUE NORTH ENERGY, LLC FOR INSTALLATION AND MAINTENANCE OF A STORM SEWER FACILITY AND APPURTENANCES, AND DECLARING AN EMERGENCY

WHEREAS, as part of the construction of a new development in Kinross Lakes, it is in the best interests of the Village to enter into an Easement Agreement with True North Energy, LLC (Grantor) for Installation and Maintenance of a Storm Sewer Facility (line) and Appurtenances with True North Energy, LLC for the benefit of the residents of the Village and Grantor.

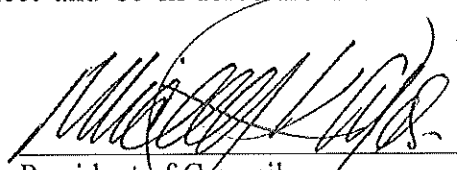
NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, County of Summit, State of Ohio that:

SECTION 1. The Mayor and the Director of Finance are hereby authorized and directed to enter into an Easement Agreement with True North Energy, LLC (Grantor) for Installation and Maintenance of a Storm Sewer Facility (line) and Appurtenances for the benefit of the residents of the Village and Grantor, substantially in accordance with the easement agreement attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

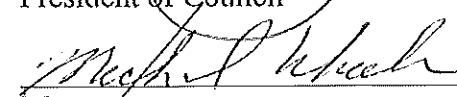
SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that the deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Revised Code of the State of Ohio.

SECTION 3. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary in order to begin the needed work on the storm sewer line at the earliest possible time; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 10-5-21




President of Council



Mayor

Dated: 10/5/2021

ATTEST


Clerk of Council

**EASEMENT AGREEMENT
FOR
SEWER LINE**

This Easement Agreement (the "Agreement") is entered into on _____, 2021, between **True North Energy, LLC**, a Delaware limited liability company ("True North"), with an address of 10346 Brecksville Road, Brecksville, OH 44141 and **Village of Richfield.**, an Ohio municipal corporation, ("Richfield"), with an address of 4410 West Streetsboro Road, Richfield, OH 44286.

RECITALS:

A. True North is the owner of certain real estate located in the Plat of Kinross Lakes in the Village of Richfield, County of Summit, Ohio legally described on *Exhibit A* attached hereto and made a part hereof (the "True North Parcel").

B. True North has agreed to grant and convey to Richfield, and its successors and assigns, a nonexclusive easement for a storm sewer line ("Sewer Line") on, over, across and under that portion of the True North Parcel shown on *Exhibit B* attached hereto and made a part hereof (the "Easement Area") and legally described on *Exhibit C* attached hereto and made a part hereof, to permit Richfield to construct, install, operate, use, maintain, repair and replace the Sewer Line.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged by each of the undersigned, the parties agree as follows:

1. **Grant of Easement.** Upon and subject to the terms hereof, True North hereby grants and conveys to Richfield and its successors and assigns a perpetual and nonexclusive easement on, over, across and under the Easement Area for the operation, use, maintenance, repair and replacement of the Line. The foregoing grant of easements shall vest in Richfield the right and privilege of entering upon the Easement Area by itself, its employees and contractors, to inspect, maintain, operate, repair and replace the Line following installation of the Line by True North at its expense. Richfield shall be responsible for the cost of repair to or replacement of any

improvement within the Easement Area due to damage that occurs as a result of Richfield's activities therein.

2. **Construction, Installation and Maintenance; Manner of Work.** Richfield agrees that the Line shall be operated, controlled and maintained in good condition and repair, at Richfield's sole cost and expense (unless said maintenance is performed by Summit County or other governmental authority), in conformity with all governmental regulations. All construction, installation and maintenance shall also be performed in an expeditious and workmanlike manner so as to minimize interference with the True North Parcel (including any other utility lines in the Easement Area). If Richfield and True North, or either of them, reasonably anticipates that any such construction, installation or maintenance will interfere with the True North Parcel, or the construction or operation thereon, then in such event, the parties agree to consult one another in good faith so as to minimize, or eliminate altogether, such interference.

3. **Reserved Rights.** True North hereby reserves for itself and its successors and assigns, the right to use the Easement Area for any purpose that is not inconsistent with Richfield's use of the Easement Area for the Line.

4. **Indemnification.** ~~Richfield, for itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless True North, its members and its and their successors and assigns, from and against any and all injuries, losses, damages, liens, expenses, claims, demands or causes of action of whatever kind or nature caused by or arising out of: (a) the exercise of any rights under this Agreement by Richfield, its successors or assigns, or any of its or their agents, employees, tenants, customers, guests, licensees or invitees; or (b) Richfield's breach of any agreement, covenant or condition contained herein.~~

5. **Binding Nature.** This Agreement, and all of the terms and conditions contained herein, shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns, and shall be deemed to run with the land and bind the True North Parcel.

6. **Notices.** Any notices or other communications required or permitted under this Agreement (collectively, "Notices") shall be in writing and shall be delivered personally, by nationally recognized overnight courier, or by United States certified mail, return receipt requested, to the parties or their successors at the addresses first set forth above, or to such other address as a party shall designate in writing. All Notices shall be effective upon the earlier of actual receipt, one business day after sending by nationally recognized overnight courier, or three business days after mailing by certified mail, return receipt requested.

7. **Waiver of Default.** No waiver of a default by any party to this Agreement shall be implied from any omission by any other party to take any action with respect thereto. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The rights and remedies given to any party to this Agreement shall be deemed to be cumulative and no one

of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which any such party might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by any such party shall not impair such party's standing to exercise any other right or remedy.

8. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, applicable Ohio law. If any provision of this Agreement, or the application thereto to any party or circumstance shall, for any reason and to any extent, be invalid or unenforceable, such provision shall to that extent be omitted, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent permitted by law.

The parties have executed this Agreement on the dates set forth below their signatures.

True North Energy, LLC
By: True North Holdings, Inc., Its Member

By: _____
Mark E. Lyden, CEO and President

State of Ohio)
) ss:
County of Cuyahoga)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Mark E. Lyden, CEO/President of True North Holdings, Inc., an Ohio corporation, Member of True North Energy, LLC, a Delaware limited liability company, on behalf of the limited liability company.

Notary Public - State of Ohio

Village of Richfield

By: _____

Title: Mayor

By: _____

Title: Director of Finance

Approval as to form:

Law Director

State of Ohio)
) ss:
County of Cuyahoga)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____, as Mayor and _____, as Director of Finance of Village of Richfield, an Ohio municipal corporation, on behalf of the municipal corporation.

Notary Public - State of Ohio

Drafted by and when recorded return to:
Patricia G. Lyden, Esq.
Lyden, Chappell & Dewhirst, Ltd.
5565 Airport Highway, Suite 101
Toledo, OH 43615

Exhibit A
True North Parcel
Legal Description

KINROSS LAKES

PARCEL P

April 9, 2020

Situated in the Village of Richfield, County of Summit and State of Ohio and known as being part of Block B of the Kinross Lakes subdivision as recorded in Cabinet L, Slides 593 through 596 and more fully described as follows:

Beginning at a capped iron pin found at the southwesterly corner of said Block B. Said corner is on the northerly right of way line of Wheatley Road (variable width)(S.R. 176) and on the easterly right of way line of Kinross Lakes Parkway as recorded in said Kinross Lakes subdivision.

Thence following an arc of a curve to the right, along the easterly right of way line of said Kinross Lakes Parkway, having a radius of 35.00 feet, a central angle of 90 degrees 00 minutes 00 seconds, a tangent distance of 35.00 feet, a chord distance of 49.50 feet which bears North 41 degrees 26 minutes 05 seconds West, a distance of 54.98 feet to a capped iron pin found;

Thence North 3 degrees 33 minutes 55 seconds East, continuing along the easterly right of way line of said Kinross Lakes Parkway, a distance of 175.00 feet to a capped iron pin found;

Thence North 0 degrees 48 minutes 17 seconds West, continuing along the easterly right of way line of said Kinross Lakes Parkway, a distance of 131.24 feet to a capped iron pin found;

Thence following an arc of a curve to the right, (not tangent to the previous course), continuing along the easterly right of way line of said Kinross Lakes Parkway, having a radius of 270.00 feet, a central angle of 47 degrees 09 minutes 00 seconds, a tangent distance of 117.82 feet, a chord distance of 215.97 feet which bears North 27 degrees 08 minutes 25 seconds East, a distance of 222.19 feet to a capped iron pin to be set;

Thence North 50 degrees 42 minutes 55 seconds East, continuing along the easterly right of way line of said Kinross Lakes Parkway, a distance of 109.30 feet to a capped iron pin to be set;

Thence South 39 degrees 17 minutes 05 seconds East, a distance of 174.23 feet to a capped iron pin set;

Thence South 3 degrees 33 minutes 55 seconds West, a distance of 484.48 feet to a capped iron pin set on the northerly right of way line of said Wheatley Road;

Thence following an arc of a curve to the right, along the northerly right of way line of said Wheatley Road, having a radius of 12207.67 feet, a central angle of 0 degrees 42 minutes 16 seconds, a tangent distance of 75.05 feet, a chord distance of 150.09 feet which bears North 86 degrees 47 minutes 12 seconds West, a distance of 150.10 feet to a capped iron pin found at a point of tangency;

Thence North 86 degrees 26 minutes 05 seconds West, continuing along the northerly right of way line of said Wheatley Road, a distance of 89.91 feet to the point of beginning and containing 149,437 square feet or 3.4306 acres of land, more or less.

Said parcel is subject to all easements, restrictions and reservations of record.

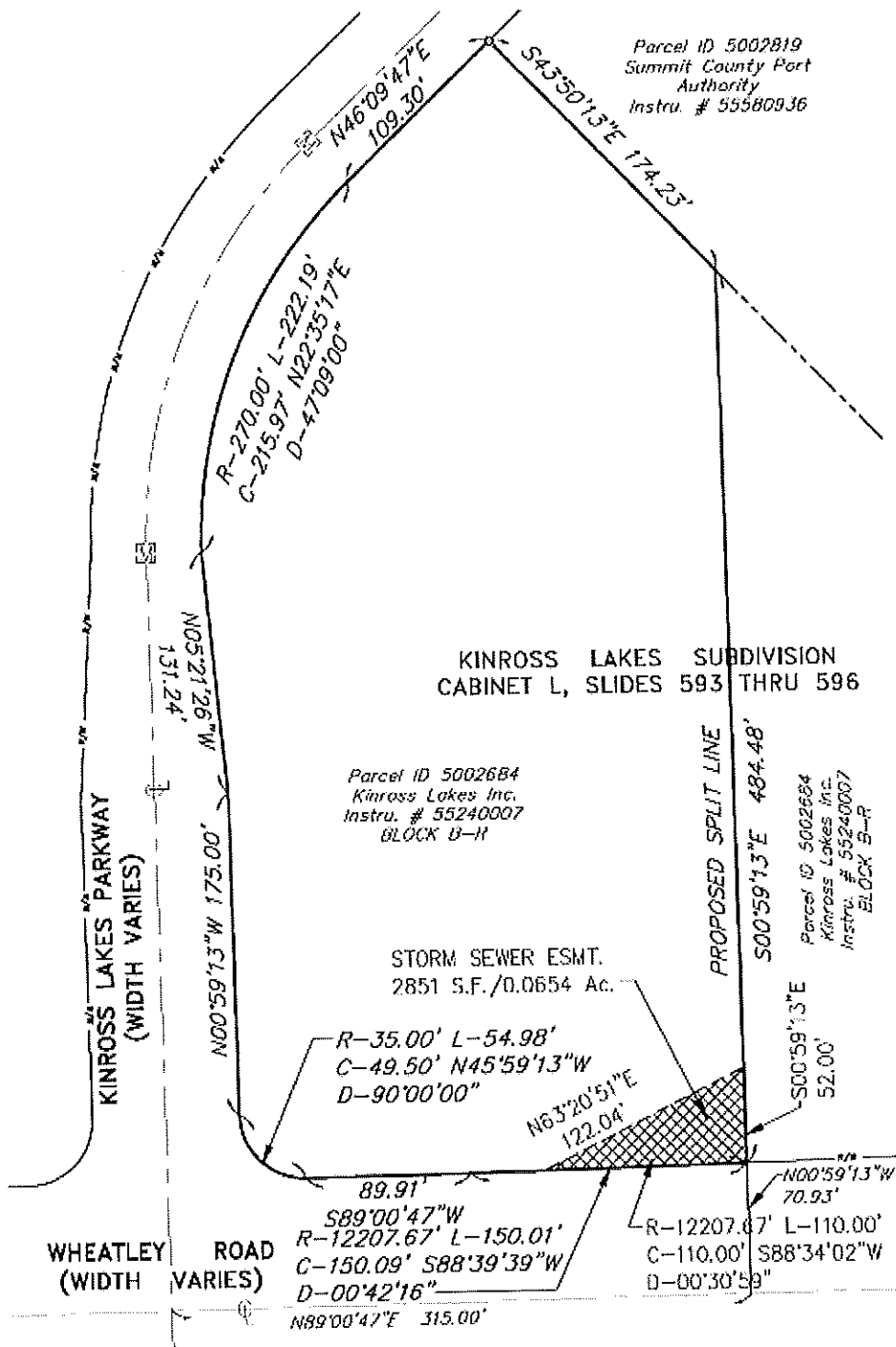
This description is based on a survey made by Dennis W. Stoffer, Registered Surveyor No. 7604, in May, 2016.

All capped iron pins set listed in this description are 5/8 inch rebar with caps "Stoffer LS 7604" unless otherwise noted.

Prior Deed Reference is Reception Number 55240007 of the Summit County Record of Deeds.

The Basis of Bearing is the Kinross Lakes Plat as recorded in Cabinet L, Slides 593-596 of the Summit County Record of Plats.

**Exhibit B
Easement Area Drawing**



NORTH



SCALE
1 INCH = 80'
11X17 SHEETS ONLY

NEFF
ASSOCIATES

6405 York Road, Parma Heights, Ohio 44130
Tel: 440.884.3100 | Fax: 440.884.3104

RICHFIELD, OHIO
07/21/2021 JOB#14569

STORM SEWER EASEMENT (SOUTH)
TRUENORTH-4035 WHEATLEY RD.

Exhibit C
Legal Description
Easement Area



Legal Description
Truenorth
4035 Wheatley Road
Storm Sewer Easement (South)
File No. 14569-LD002
July 21, 2021
Page 1 of 2

Situated in the Village of Richfield, County of Summit, State of Ohio and known as being part of Block B in the Kinross Lakes, of part of Original Township Lot Nos. 1 and 3, Tract No. 3as shown in recorded plat in Cabinet I, Slides 593 thru 596 of Summit County Records and is further bounded and described as follows:

Beginning at the intersection of the centerline of Wheatley Road (Width Varies), with the centerline of Kinross Lakes Parkway (Width Varies);

Thence North $89^{\circ}00'47''$ East, along the centerline of said Wheatley Road, a distance of 315.00 feet;

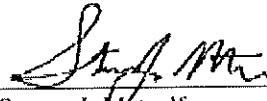
Thence North $00^{\circ}59'13''$ West, a distance of 70.93 feet to a point on the Northerly right of way for said Wheatley Road and the principal place of beginning for the parcel hereinafter described;

- Course 1 Thence Southwesterly, along the Northerly right of way for said Wheatley Road, by the arc of a curve deflecting to the left, a distance of 110.00 feet. Said arc having a radius of 12,207.67 feet, a central angle of $00^{\circ}30'59''$ and a chord which bears South $88^{\circ}34'02''$ West, a distance of 110.00 feet;
- Course 2 Thence North $63^{\circ}20'51''$ East, a distance of 122.04 feet;
- Course 3 Thence South $00^{\circ}59'13''$ East, a distance of 52.00 feet to the principal place of beginning and containing **0.0654 Acres (2851 Square Feet)** of land. Be the same more or less, but subject to all legal highways and easements of record as surveyed by Steven J. Metcalf, Registered Surveyor No. 8622-Ohio of Neff & Associates, field work performed March, 2021.

The basis of bearings for this survey is Grid North of the NAD 83 (Cors96), Ohio State Plane, North Zone (3401) as established by GPS observations and the bearings shown hereon are used to denote angles only.

Legal Description
Truenorth
4035 Wheatley Road
Storm Sewer Easement (South)
File No. 14569-LD002
July 21, 2021
Page 2 of 2

Monuments described as "5/8" iron pin set" are 5/8" rebar capped "Neff & Assoc.-8622".



Steven J. Metcalf
Registered Survey No. 8622-Ohio
Neff & Associates

