

RESOLUTION NO. 100-2006

Offered by All of Council

A RESOLUTION AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION, CONCERNING CONSTRUCTING SEWERS AND PROVIDING ACCESS TO TWO SAFETY REST AREAS ON INTERSTATE 77

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

SECTION 1. That the Mayor and the Finance Director be, and they hereby are, authorized and directed to enter into an agreement with the State of Ohio, Department of Transportation, concerning constructing and providing sanitary sewer service to two (2) Safety Rest Areas located on Interstate 77, a copy of which agreement is attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

SECTION 2. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1/2/2007

  
\_\_\_\_\_  
President of Council

  
\_\_\_\_\_  
Mayor

Dated: 1/2/07

ATTEST:

  
\_\_\_\_\_  
Clerk of Council

**ODOT AGREEMENT NO.**

**A G R E E M E N T**

This AGREEMENT is made by and between the State of Ohio, Department of Transportation, located at 1980 West Broad Street, Columbus, Ohio 43223, hereinafter referred to as the STATE, and the Village of Richfield, 4410 W. Streetsboro Road, P.O. Box 387, Richfield, Ohio 44286-0387, referred to as the VILLAGE.

**RECITALS:**

**WHEREAS**, the STATE maintains two Safety Rest Areas, one southbound at milepost 141.2 and one northbound at milepost 141.1 on Interstate 77 located outside yet adjacent to the Village of Richfield, and in an effort to improve the sanitary conditions of the Safety Rest Area, the STATE has requested permission to tap into the sanitary sewer system of the VILLAGE; and

**WHEREAS**, the VILLAGE has agreed to permit the connection with its sanitary sewer to serve both Safety Rest Areas; and

**WHEREAS**, the STATE is authorized by R.C. 5525.01 to construct rest area facilities, and is charged by R.C. 5515.07 with the responsibility to maintain and control the use of rest areas; and

**WHEREAS**, the STATE is authorized to acquire the services of a public utility pursuant to R.C. 9.30; and

**WHEREAS**, the parties desire to carry out and accomplish the construction of a sanitary sewer system to connect to the VILLAGE=s existing sanitary sewer system, hereinafter referred to as the PROJECT, and to agree upon the manner of doing the work required.

**NOW, THEREFORE**, for and in consideration of the mutual covenants hereinafter stipulated to be kept, the parties hereby agree as follows:

**SECTION 1: RECITALS**

1.1\_ The following recitals are incorporated herein as if fully rewritten.

**SECTION 2: OBLIGATIONS OF THE VILLAGE**

2.1 The VILLAGE agrees to permit the STATE to connect a 4” force main to an existing sanitary manhole located at the northeast corner of the intersection of Everett Road and Motor Road. From there it is anticipated that the output will flow through an existing 8” gravity sewer to the Hillcrest pumping station.

2.2 The VILLAGE agrees to inspect and approve the final hydrostatic test of the force main, as well as the connection to the existing manhole.

2.3 The VILLAGE agrees to maintain the 8” gravity sewer at the point of connection with a full

flow capacity of approximately 335 gallons per minute or 478,000 gallons per day. The VILLAGE agrees to continue to maintain the 6" force main exiting the Hillcrest pump station at a maximum capacity of approximately 530 gallons per minute.

- 2.4 Once constructed, the VILLAGE agrees that the specified capacity shall be maintained at all times, at the VILLAGE's expense. Such capacity shall not be altered by the VILLAGE as a result of the addition of new construction service areas for the VILLAGE's sanitary sewer system. In the event such capacity is exceeded in the future, the VILLAGE agrees that the STATE shall only be charged its fair share proportional cost to any upgrade of the pump station if necessary and the VILLAGE agrees that this cost should not exceed 5% of the overall cost of the upgrade.
- 2.5 The VILLAGE shall retain ownership and maintenance responsibilities of all gravity sewers, manholes, lift stations and force main at and beyond the point of connection of the STATE'S force main. The STATE shall own and maintain the proposed pump station located at the I-77 southbound rest area along with proposed 4" force main from that pump station to the point of connection at the intersection of Everett Road and Motor Road.

### **SECTION 3: OBLIGATIONS OF STATE: CONSTRUCTION**

- 3.1 The VILLAGE hereby proposes to cooperate with the STATE in the construction of this Project by granting the STATE permission to perform work within the rights-of-way of Everett Road and Motor Road for the construction of the force main. The STATE agrees that all work will be performed with the approval of the VILLAGE and it will abide by all State, Federal and Local laws and regulations.
- 3.2 The STATE agrees to pay, or cause to be paid, to the VILLAGE a total sewer access fee of Seventy Thousand, Four Hundred Ninety-four Dollars and Twenty-seven Cents (\$70,494.27). This sewer access fee represents the recapture of costs expended by the VILLAGE for the construction of the sanitary sewer system and such amount is based on a formula passed by the Council of the Village of Richfield as set forth in Exhibit A, attached hereto and incorporated herein.

### **SECTION 4: PAYMENT OF FEE**

- 4.1 Within thirty (30) days from the date of last signature to this agreement, the VILLAGE shall submit an invoice, as directed by the STATE, for the total sewer access fee. The VILLAGE agrees to accept payment made on behalf of the STATE from a third party. The VILLAGE acknowledges that the payment procedure requires 45 to 60 calendar days to complete. The parties agree that the payment process shall not delay the construction of the PROJECT.

### **SECTION 5: OBLIGATIONS OF THE PARTIES: POST CONSTRUCTION**

- 5.1 Upon completion of the PROJECT and after the sanitary sewer system becomes operational, the VILLAGE shall charge, and the STATE agrees to pay, the same sewerage user rate charged other commercial customers outside of the VILLAGE.

- 5.2 Pursuant to Section 9.30 of the Ohio Revised Code, this Section shall survive the termination of this Agreement to permit the STATE to pay for, and receive, sanitary sewer services from the VILLAGE for as long as such services are needed for the safety and convenience of the traveling public.

#### **SECTION 6: EFFECTIVE DATE: TERMINATION**

- 6.1 **CONSTRUCTION ONLY:** This Agreement shall commence on the date of the last signature thereto and shall end on June 30, 2007. At that time, the parties may agree to renew this Agreement on the same terms and conditions for as many successive terms as agreed to by the parties, provided that all successive terms shall not extend beyond the end of STATE=s biennium.
- 6.2 If, at any time before the sanitary sewer system becomes operational, upon material breach of this Agreement by the VILLAGE or the STATE, the party adversely affected by the breach may terminate this agreement by giving thirty (30) days written notice to the other party.

#### **SECTION 7: GENERAL PROVISIONS**

- 7.1 This Agreement shall be to the benefit of and be binding upon the respective parties herein, their successors, and assigns.
- 7.2 The Agreement supersede all prior agreements, written or oral, between the VILLAGE and the STATE and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended, or altered except by a writing signed by the STATE and the VILLAGE.
- 7.3 This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Ohio.
- 7.4 It is expressly understood by the parties that none of the rights, duties, and obligations described in this contract shall be binding on either party until all statutory provisions under the Ohio Revised Code, including but not limited to Section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the General Assembly and by the Controlling Board of the State of Ohio or, in the event that federal funds are used, until such time that the State gives the VILLAGE written notice that such funds have been made available to the State, by the State=s funding source.
- 7.5 The VILLAGE shall provide its own workers= compensation coverage throughout the duration of the contract and any extensions thereof. The STATE is hereby released from any and all liability for injury received by the VILLAGE, its employees, agents, or subcontractors, while performing tasks, duties, work, or responsibilities as set forth in this contract.
- 7.6 The VILLAGE accepts full responsibility for payment of all taxes including without limitation, unemployment compensation insurance premiums, all income tax deductions,

social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by the VILLAGE in the performance of the work authorized by this contract. The STATE shall not be liable for any taxes under this contract.

- 7.7 The VILLAGE agrees to comply with all applicable state and federal laws regarding drug-free workplace. When applicable, the VILLAGE shall make a good faith effort to ensure that all employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.
- 7.8 The VILLAGE further agrees that it is in compliance with the requirements of Ohio Revised Code Section 125.111.

IN WITNESS WHEREOF, the parties have executed the Agreement, in duplicate, as to the date last written below.

**THE STATE OF OHIO**  
**Department of Transportation**

**VILLAGE OF RICHFIELD, OHIO**

BY: \_\_\_\_\_  
GORDON PROCTOR  
Director .....

BY: \_\_\_\_\_  
Michael K. Lyons  
Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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By: \_\_\_\_\_  
Elinore Lukoviks  
Finance Director

Date: \_\_\_\_\_

APPROVED AS TO FORM ONLY:

By: \_\_\_\_\_  
Charles Riehl  
Village Solicitor