

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AMENDED EASEMENT AGREEMENT WITH THE BOARD OF PARK COMMISSIONERS OF SUMMIT METRO PARKS FOR THE INSTALLATION AND MAINTENANCE OF SEWERS LOCATED ON PERMANENT PARCEL NUMBER 5000003 IN THE VILLAGE OF RICHFIELD AND DECLARING AN EMERGENCY

WHEREAS, the Board of Park Commissioners of Summit Metro Parks (“Grantor”) is the owner of that certain real property located in the Village of Richfield, County of Summit, and State of Ohio, currently identified as Permanent Parcel Number 5000003 in the Summit County Records (the “Property”);

WHEREAS, the Property is encumbered by that certain Easement for the Installation and Maintenance of Sewers (the “Easement”) between Grantor, fka as the Board of Park Commissioners of the Akron Metropolitan Park District, and the Village, recorded as instrument number 482812 in the Summit County Recorder’s Office on March 14, 1989 (OR 216, Page 433);

WHEREAS, the Easement describes the easement area (the “Original Easement Area”) upon which the Village currently maintains and operates a sanitary pump station (the “Original Pump Station”);

WHEREAS, the Village desires to enhance the service capabilities of the Original Pump Station by constructing a new sanitary pump station just south of and adjacent to the Original Pump Station on the Property (the “New Pump Station”);

WHEREAS, upon completion of the New Pump Station, the Village plans to remove the Original Pump Station and return the Original Easement Area and any disturbed portions of the Property to its natural unimproved condition.

WHEREAS, in order to accomplish said objectives, the parties desire to amend the Easement as follows in order to replace the legal description of the Original Easement Area with a description of the area on which the New Pump Station will be located.

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

SECTION 1. The Mayor is hereby authorized and directed to enter into an Amended Easement Agreement with the Grantor, a copy of which is attached hereto as Exhibit A.

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 all deliberations of this Council and of 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 Ohio Revised Code.

SECTION 3. This Resolution is hereby declared to be an emergency measure for the reason that it is immediately necessary to execute the Agreement in order to ensure that the easement is duly and timely recorded in advance of any potential transfers of the property which is the subject of the Amended Easement Agreement, provided that it receives the requisite number of votes needed to pass as an emergency measure; otherwise, it shall take effect at the earliest date allowed by law.

PASSED: 3-5-24




President of Council



Mayor

Dated: 3/8/2024

ATTEST:


Clerk of Council

**AMENDMENT TO EASEMENT
FOR THE INSTALLATION
AND MAINTENANCE OF SEWERS**

This Amendment to Easement for the Installation and Maintenance of Sewers (“Amendment”) is made this ___ day of _____, 2023, by and between the **BOARD OF PARK COMMISSIONERS OF SUMMIT METRO PARKS**, a park district created as a body politic and corporate pursuant to Chapter 1545 of the Ohio Revised Code (the “Grantor”), and the **VILLAGE OF RICHFIELD, OHIO**, an Ohio municipal corporation, whose mailing address is 4410 W. Streetsboro Road, Richfield, Ohio 44286 (the “Grantee”).

RECITALS

A. Grantor is the owner of that certain real property located in the Village of Richfield, County of Summit, and State of Ohio, currently identified as Permanent Parcel Number 5000003 in the Summit County Records (the “Property”);

B. The Property is encumbered by that certain Easement for the Installation and Maintenance of Sewers (the “Easement”) between Grantor, fka the Board of Park Commissioners of the Akron Metropolitan Park District, and Grantee, recorded as instrument number 482812 in the Summit County Recorder’s Office on March 14, 1989 (OR 216, Page 433);

C. The Easement describes the easement area (the “Original Easement Area”) upon which the Grantee currently maintains and operates a sanitary pump station (the “Original Pump Station”).

D. Grantee desires to enhance the service capabilities of the Original Pump Station by constructing a new sanitary pump station just south of and adjacent to the Original Pump Station on the Property (the “New Pump Station”);

E. Upon completion of the New Pump Station, Grantee plans to remove the Original Pump Station and return the Original Easement Area and any disturbed portions of the Property to its natural unimproved condition.

F. Accordingly, the parties desire to amend the Easement as follows in order to replace the legal description of the Original Easement Area with a description of the area on which the New Pump Station will be located.

AGREEMENT

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), the covenants and agreements set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment of Legal Description. The Original Easement Area as described in the Easement is hereby deleted in its entirety and replaced with the legal description of that approximately 2,872 square foot area set forth in **Exhibit A** and depicted on **Exhibit B** (“Easement Area”).

2. Temporary License. Until the New Pump Station is constructed and in service, Grantee may use the Original Easement Area and shall have the right of ingress and egress to and from such Original Easement Area to the Easement Area for the purposes of constructing the New Pump Station and removing the Original Pump Station. Thereafter, Grantee shall, within a reasonable amount of time, restore the Original Easement Area to a natural and unimproved condition consistent with the surrounding Property outside of the Easement Area and consistent with Grantor’s then-current vegetation standards, policies, and procedures.

3. Vegetation Management. Should any trees or other vegetation need to be removed in order to lay, install, inspect, operate, repair, maintain, replace, or reconstruct the New Pump Station and any other necessary appurtenances thereto, Grantee shall notify Grantor prior to any action taken to determine the least intrusive way to maintain or operate the New Pump Station while in accordance with the rules and regulations of Grantor.

4. Insurance. Grantee and its contractors and agents shall comply with all statutes, ordinances, rules, orders, regulations and requirements of the federal or state governments and of any and all departments and bureaus thereof applicable to the installation, construction, laying, existence, operations, maintenance and use of the New Pump Station. All construction, installation, maintenance, repair and replacement hereunder shall be performed in a good and workmanlike manner and Grantee shall promptly discharge, at its sole cost and expense, any and all liens asserted against the Property as a result of the performance of any such construction of the New Pump Station or other use of the Easement.

During the course of any construction in the Easement Area, Grantee shall maintain or shall cause its agents or contractors to maintain adequate comprehensive liability and builder's risk insurance for bodily injury or death, or for property damage caused by any accident that may occur to any person while on the Property or any damage to the Property, with limits reasonably acceptable to Grantor.

5. Miscellaneous. Should the Easement Area no longer be used for the purposes set forth in the Easement, the Grantee must remove any improvements and restore the Easement Area to its natural unimproved condition after which the Easement shall terminate and the Easement Area shall revert to the Grantor. This Amendment shall be construed in accordance with Ohio law, without regard to its choice of law provisions and shall not be amended or modified unless in writing executed by both parties and recorded in the Public Records of Summit County, Ohio. Except as specifically amended by this Amendment, the terms and provisions of the Easement shall remain unchanged. In the event of a conflict between the terms and provisions of this Amendment and those of the Easement, this Amendment shall control. The Easement, as amended hereby, shall inure to the benefit of and be binding upon the parties, and their respective successors and assigns. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one instrument.

[signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first above written.

GRANTOR:

BOARD OF PARK COMMISSIONERS OF
SUMMIT METRO PARKS, a park district

By: _____
Lisa King, Executive Director

GRANTEE:

VILLAGE OF RICHFIELD, OHIO, an Ohio
municipal corporation

By: _____
Mayor Michael Wheeler

STATE OF OHIO)
) SS:
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ___ day of _____ 2023, by Lisa King, Executive Director of the Board of Park Commissioners of Summit Metro Parks, a park district, on behalf of the Board.

Notary Public

STATE OF _____)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____ 2023, by Michael Wheeler, the Mayor of the Village of Richfield, Ohio, an Ohio municipal corporation, on behalf of the Village.

Notary Public

This Instrument Prepared By:

Roetzel & Andress, LPA
222 South Main Street
Akron, Ohio 44308
Attn: Natalie Rothenbuecher, Esq.
nrothenbuecher@ralaw.com

EXHIBIT A

Legal Description of Easement Area

Boundary Description for
Metro Parks Serving Summit County
Village of Richfield, County of Summit, State of Ohio
Summit Pump Station Easement
0.0659 Acres

Situated in the Village of Richfield, County of Summit and State of Ohio and known as being part of Original Richfield Township Lot No. 5, Tract No. 4, further known as being part of a 20.58 acre parcel of land conveyed to Metro Parks Serving Summit County and is bounded and described as follows: Beginning at a Point of Intersection of a curve of the centerline of Brecksville Road (S.R. 21), varies in width; thence with the a centerline tangent of said Brecksville Road South $05^{\circ}27'24''$ West, a distance of 39.00 feet to a point; thence South $84^{\circ}32'36''$ East, 72.19 feet to a point on the easterly right of way line of said Brecksville Road and the PRINCIPAL PLACE OF BEGINNING of the easement herein to be described, said point also being the southwesterly corner of an existing pump station easement recorded in O.R. 216, Page 433 of the Summit County Recorder's Records;

thence South $75^{\circ}29'45''$ East, with the southerly line of said existing pump station easement, 58.00 feet to the southeasterly corner thereof;

thence South $14^{\circ}30'15''$ West, 50.00 feet to a point;

thence North $75^{\circ}29'45''$ West, 50.00 feet from and parallel with the southerly line of said pump station easement, 56.78 feet to a point of non-tangent curvature on the easterly right of way line of Brecksville Road;

thence northeasterly with the easterly right of way line of Brecksville Road and the arc of a curve deflecting to the right, 50.02 feet to the Principal Place of Beginning, said curve having a radius of 3274.35 feet, a central angle of $00^{\circ}52'31''$ and a chord that bears North $13^{\circ}06'07''$ East, 50.01 feet, containing 2,872 square feet or 0.0659 acres of land, according to a survey by Davey Resource Group in November of 2022. Subject to all highways, easements, and covenants of legal record.

Bearings are based upon Ohio State Plane Coordinate System, North Zone, NAD 1983, ground.

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