

RESOLUTION NO. 49-2008

Offered by All of Council

A RESOLUTION AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF SUMMIT, RICHFIELD TOWNSHIP, WATER & SEWER, LLC AND RICHFIELD FURNACE RUN, LLC CONCERNING THE PROVISION OF WATER TO THE BRIARWOOD WATER SERVICE AREA AND DECLARING AN EMERGENCY.

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 County of Summit, Richfield Township, Water & Sewer, LLC and Richfield Furnace Run, LLC to provide water to the Briarwood Water Service Area, a copy of which Agreement is attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

SECTION 2. 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 provide potable water to the Briarwood Water Service Area 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: 9/11/08



President of Council



Mayor

Dated: 9/11/08

ATTEST:


Clerk of Council

AGREEMENT

THIS AGREEMENT made this _____ day of _____, 2008, by and among the VILLAGE OF RICHFIELD (“Richfield”), COUNTY OF SUMMIT (“Summit”), RICHFIELD TOWNSHIP (“Township”), WATER AND SEWER LLC (“LLC”) and RICHFIELD FURNACE RUN, LLC (“Furnace Run”).

WHEREAS, the City of Cleveland and Richfield entered into a Water Service Agreement dated April 16, 1982, known as Cleveland Contract No. 32095 as set forth in Exhibit “A”; and

WHEREAS, the City of Cleveland and Summit have entered into a Direct Service Agreement dated May 17, 1994, known as Cleveland Contract No. 47291 as set forth in Exhibit “B”; and

WHEREAS, LLC owns and operates a private water service company regulated by the Public Utilities Commission of Ohio (“PUCO”) providing water in both Richfield and Richfield Township; and

WHEREAS, Furnace Run owns property in Richfield Township and is desirous of being assured that water lines can be extended throughout its property to provide water to future development in its property; and

WHEREAS, LLC is willing to transfer ownership of its water lines in both Richfield and Richfield Township under the terms and conditions set forth herein; and

WHEREAS, Richfield is willing to accept ownership of the water lines under the terms and conditions set forth herein; and

WHEREAS, all parties agree that water lines may be extended in Richfield Township into the Water Service Area set forth as Exhibit “C” attached hereto and referred to the Briarwood Water Service Area; and

WHEREAS, Cleveland and County of Summit have entered into a Memorandum of Understanding of even date herewith whereby Cleveland and Summit have agreed to expand the service area into the Briarwood Water Service Area, a copy of which Memorandum of Understanding is attached hereto as Exhibit “D”; and

WHEREAS, Richfield and Summit have entered into a Memorandum of Understanding of even date herewith whereby Richfield has agreed to undertake all of Summit’s rights, duties and obligations under the Direct Service Agreement dated May 17, 1994 between Cleveland and Summit set forth as Exhibit “B” attached hereto, a copy of which Memorandum of Understanding is attached hereto as Exhibit “E”; and

WHEREAS, all parties agree to the expanded Briarwood Water Service Area as described in Exhibit “C” attached hereto.

NOW, THEREFORE, IT IS HEREBY AGREED by and among the parties:

1. LLC shall, at its own cost, construct a connection as approved by the standards of the City of Cleveland, Department of Utilities, Water Division between the existing terminus of the Village of Richfield water lines in Streetsboro Road and LLC’s water lines in Sawbridge Road.

2. After construction of the connection, LLC shall transfer, without cost, the ownership all of its water lines in Burrwood Drive, Scanwood Drive and Sawbridge Drive and Streetsboro Road to Richfield.

3. Thereafter, Cleveland, pursuant to its contract with Richfield (Exhibit “A”) and its Memorandum of Understanding with County of Summit (Exhibit “D”) shall provide water through Richfield’s water lines to the areas formerly served by LLC in Richfield and Richfield Township as well as areas to be served in the future under the expanded Water Service Area known as the Briarwood Water Service Area attached hereto as Exhibit “C.”

4. Furnace Run shall be entitled to have water service extended to its property in the Briarwood Water Service Area (Exhibit “C” attached hereto) provided it shall construct the service lines in accordance with the standards of the City of Cleveland, Department of Utilities, Water Division and shall, upon acceptance of construction, transfer, without cost, ownership of the water lines to Richfield. Furnace Run shall not need to obtain permission of Richfield Township to extend the lines in Township roads prior to construction.

5. Any future maintenance of the water lines shall be provided per the Memoranda of Understanding (Exhibits “D” and “E” attached hereto).

6. The rates charged by Cleveland for water service in the Briarwood Service Area shall be governed by the Memorandum of Understanding between the City of Cleveland and County of Summit as set forth in Exhibit D attached hereto.

7. LLC shall dismiss, with prejudice, that portion of its current application before the Public Utilities Commission of Ohio, being Case No. _____, dealing with water rate increases and shall further take all necessary steps to terminate its operation as a public utility in Ohio for the purposes of water only. LLC may, until further agreement, continue its operation as a public utility providing sewer service in Ohio.

IN WITNESS WHEREOF, the parties have set their hands as of the date and place first above written.

VILLAGE OF RICHFIELD

By: _____
Michael K. Lyons, Mayor

And: _____
Eleanor Lukovics, Finance Director

As authorized by Resolution No. ____-2008
passed _____, 2008

APPROVED AS TO LEGAL FORM

Charles T. Riehl, Law Director

COUNTY OF SUMMIT

By: _____
Russell M. Pry, County Executive

As authorized by Resolution No. _____
passed _____, 2008

APPROVED AS TO LEGAL FORM

Richard E. Dobbins, Law Director
County of Summit

WATER AND SEWER LLC

By: _____
Its _____

RICHFIELD FURNACE RUN, LLC

By: _____
Its _____

RICHFIELD TOWNSHIP

By: _____
Trustee

By: _____
Trustee

By: _____
Trustee

FISCAL OFFICER'S CERTIFICATE

The undersigned Director of Finance of the Village of Richfield, Ohio, hereby certifies that the monies required to meet the obligations of such Village during the fiscal year 2008 under the foregoing Agreement by and among the Village, the City of Cleveland, Richfield Township, Summit County and Water and Sewer LLC have been lawfully appropriated by the Council of such Village for such purposes and are in the Treasury of such Village or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances.

Date: _____

Eleanor Lukovics, Director of Finance
Village of Richfield

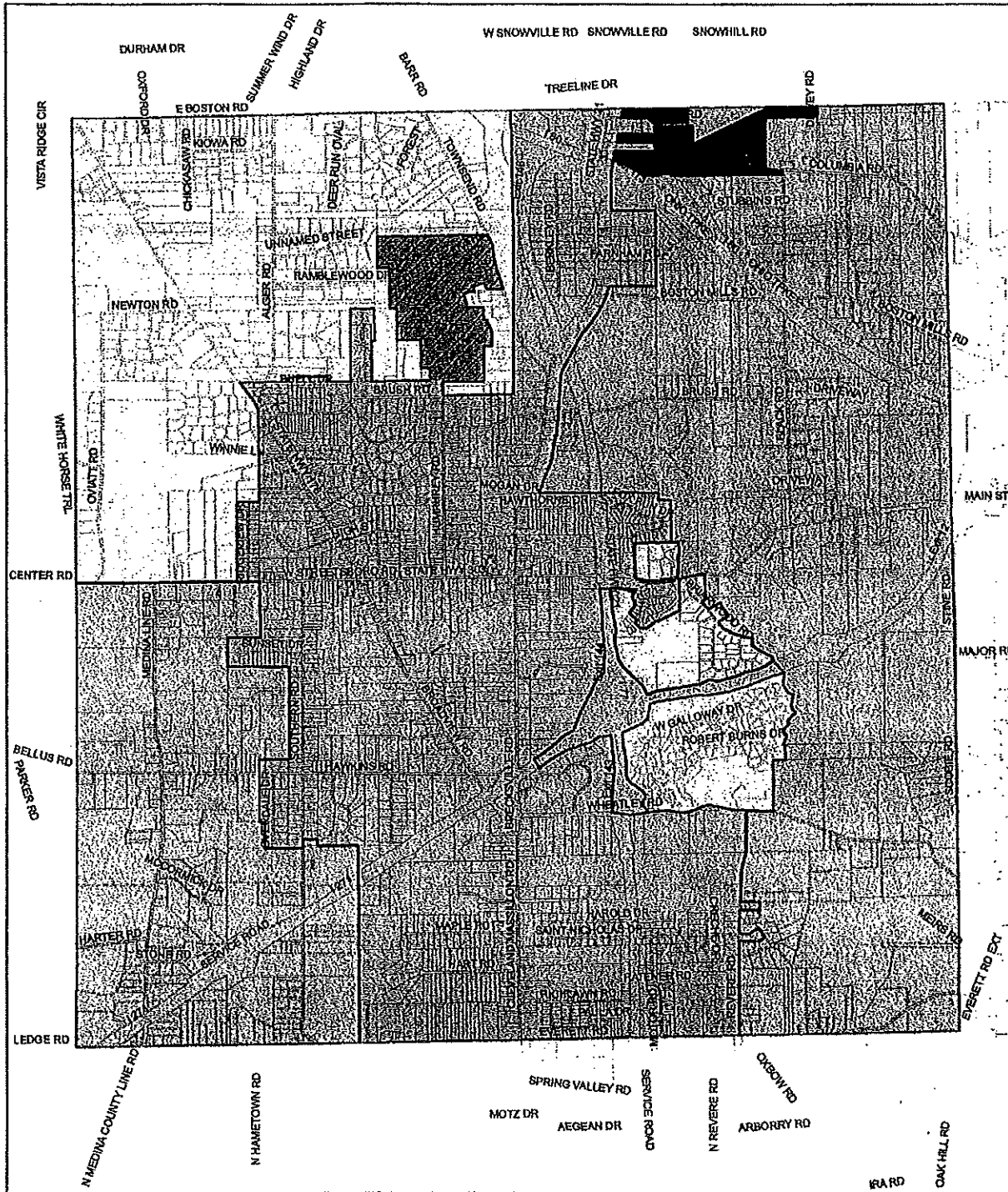
FISCAL OFFICER'S CERTIFICATE

The undersigned Fiscal Officer of the County of Summit, Ohio, hereby certifies that the monies required to meet the obligations of the County of Summit during the fiscal year 2008 under the foregoing Agreement by and among the County of Summit, the Village of Richfield, Richfield Township, the City of Cleveland and Water and Sewer LLC have been lawfully appropriated by the Council of the County of Summit for such purposes and are in the Treasury of the County of Summit or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances.






Date: _____

Fiscal Officer
County of Summit

Exhibit A - Third Expansion of Water Service Area of Contract 47291 in Richfield Township, Summit County, Ohio



Legend

-  Richfield Township - Portion Within Service Area
-  Richfield Township - Portion Not In Service Area
-  Proposed Richfield Township Expansion Area - "Briarwood Area"
-  Richfield Village
-  Annexed to Richfield Village from Richfield Township
-  Existing Richfield Village/ Richfield Township/CWD - JEDD Area