

A RESOLUTION DECLARING COUNCIL'S INTENT TO APPROPRIATE PROPERTY FOR REPAIR AND IMPROVEMENT OF THE STORM SEWER CULVERT IN HUMPHREY ROAD AND DECLARING AN EMERGENCY

WHEREAS, the storm sewer culvert in Humphrey Road has deteriorated; and

WHEREAS, the deterioration of the culvert requires immediate repair for the public health, safety and to prevent damage to property and erosion of banks in the right-of-way along Humphrey Road.

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

SECTION 1. That it is deemed necessary and hereby declared to be the intention of this Council to appropriate an easement interest in and to premises attached hereto as Exhibit "A" for the purpose of repair and maintaining the storm sewer culvert in Humphrey Road and it is further declared to be the intention of this Council to appropriate a temporary construction easement interest in and to the premises attached hereto as Exhibit "B" for the purpose of repairing and maintaining the storm sewer culvert in Humphrey Road.

SECTION 2. That the Service Director be, and he hereby is, authorized to cause written notice of the passage of this Resolution to be given to the owners, persons in possession or having an interest of record in the above-described premises, and said notice shall be served according to law by a person to be designated for the purpose by said Service Director and to make return of said service of notice in the manner provided by law.

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 a failure of the banks of Humphrey Road will cause an adverse impact to the health, safety and welfare of the residents of the Village of Richfield; 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: October 21, 1997

[Signature]
President of Council

ATTEST:

[Signature]
Clerk of Council

[Signature]
Mayor

Dated: 10/22/97

EXHIBIT "A"
STANDARD EASEMENT FOR THE
INSTALLATION AND MAINTENANCE OF
A STORM SEWER AND STORM DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS

THAT WE Dale and Kimberly Kapsar THE GRANTOR, HEREIN, FOR VALUABLE CONSIDERATION RECEIVED AND TO BE RECEIVED TO OUR FULL SATISFACTION DO HEREBY GIVE, GRANT, BARGAIN AND CONVEY TO THE VILLAGE OF RICHFIELD A MUNICIPAL CORPORATION OF THE STATE OF OHIO, THE GRANTEEES HEREIN, THE PERPETUAL RIGHT-OF-WAY AND EASEMENT, FOR THE PURPOSE HEREINAFTER MENTIONED IN THE FOLLOWING DESCRIBED PREMISES, TO-WIT;

A COPY OF THE LEGAL DESCRIPTION IS
ATTACHED HERETO AS EXHIBIT
"A" AND MADE A PART HEREOF AS IF FULLY
WRITTEN HEREIN."

IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN CONTAINED, THE GRANTOR HEREBY GIVES, GRANTS AND CONVEYS UNTO SAID GRANTEEES, THE RIGHT AND EASEMENT TO ENTER UPON SAID PREMISES AND TO LAY, INSTALL, REPAIR AND MAINTAIN THEREIN A STORM SYSTEM AND APPURTENANCES, AND THE MAKING OF ALL REPAIRS THEREWITH THAT IN THE OPINION OF THE GRANTEEES, THEIR SUCCESSORS OR ASSIGNS, MAY BE NECESSARY AT ANY TIME, TO DO ANY OTHER THING THAT MAY BE NECESSARY OR ADVISABLE IN THE JUDGMENT OF SAID GRANTEEES, THEIR SUCCESSORS OR ASSIGNS, IN ORDER TO MAINTAIN OR OPERATE SAID SYSTEM AND APPURTENANCES IN ACCORDANCE WITH THE ORDINANCES, RULES AND REGULATIONS OF THE VILLAGE OF RICHFIELD AND PROTECTION OF SAID GRANTEEES NOW IN FORCE OR THAT MAY HEREAFTER BE ADOPTED.

IT IS AGREED THAT THE IMPROVEMENTS SHALL BE INSTALLED AT THE EXPENSE OF THE GRANTEE VILLAGE OF RICHFIELD.

THE GRANTORS HEREBY RESTRICT SAID PREMISES WITHIN THE LIMITS OF THE ABOVE DESCRIBED EASEMENT AGAINST THE CONSTRUCTION THEREON OF ANY BUILDINGS OF A TEMPORARY OR PERMANENT TYPE, EXCEPTING ANY SIDEWALKS AND/OR PAVEMENTS, OR THE CONSTRUCTION IN, OVER OR SUBJACENT TO THE ABOVE DESCRIBED EASEMENT OF ANY TUNNELS, SEWERS, DUCTS, PIPES OR POLE LINES WITHIN THE LIMITS OF THE ABOVE DESCRIBED EASEMENT WHICH CROSS OVER OR UNDER SAID EASEMENT AT ANY ANGLE MORE THAN FORTY-FIVE (45) DEGREES WITH THE CENTER LINES OF THE STORM SEWER OR WITH CLEARANCE OF LESS THAN TWO (2) FEET ABOVE OR BELOW SAID SEWERS. FURTHER TO RESTRICT THE STORING OR PLACING OF ANY MATERIALS, PARKING OF ANY VEHICLES OF ANY TYPE, EQUIPMENT OR OTHER OBSTRUCTIONS THEREON, OR OTHERWISE INTERFERING WITH THE ACCESS TO OR THE MAINTENANCE OF THE STORM SEWER OR APPURTENANCES AND ALSO AGAINST THE PLANTING OR SUFFERANCE THEREON OR IN SUCH PROXIMITY THERETO OF TREES AND SHRUBBERY WHICH MAY RESTRICT THE ACCESSIBILITY FOR THE MAINTENANCE OF SAID STORM SEWER AND APPURTENANCES.

THE GRANTORS FURTHER AGREE THAT THE GRANTEEES SHALL BE RELIEVED OF ALL LIABILITY TO THE GRANTOR ON ACCOUNT OF THE MAINTENANCE, CONSTRUCTION, RECONSTRUCTION OR RELOCATION OF SAID STORM SEWER OR APPURTENANCES AND SAID GRANTOR HEREBY INDEMNIFIES AND GUARANTEES TO SAVE HARMLESS THE GRANTEEES AGAINST ANY EXPENSE OR DAMAGE TO SAID STORM SEWER OR APPURTENANCES, THAT SAID GRANTORS, THEIR SUCCESSORS OR ASSIGNS MAY AT ANY TIME CAUSE BY THE CONSTRUCTION OR MAINTENANCE OF ANY PAVING, WALKS, TUNNELS, SEWERS, DUCTS, PIPE OR POLE LINES WITHIN OR OVER SAID EASEMENT, OR SUCH OTHER USE OF PREMISES WITHIN THE LIMITS OF ABOVE DESCRIBED EASEMENT AS ARE NOT EXPRESSLY PROHIBITED HEREIN, UNDER THE SAME CONDITIONS THAT LEGALLY EXIST FOR THE INSTALLATIONS AND MAINTENANCE OF STORM SEWER AND APPURTENANCES IN STREETS DEDICATED TO PUBLIC USE.

THE GRANTOR HEREBY RESERVES THE RIGHT TO USE SAID PREMISES WITHIN THE LIMITS OF THE ABOVE DESCRIBED EASEMENT FOR THE PASSAGE OR TRANSPORTATION OF PERSONNEL, MATERIALS OR EQUIPMENT OVER OR ACROSS THE DESCRIBED EASEMENT AND TO MAKE SUCH OTHER USE OF SAID PREMISES WITHIN THE LIMITS OF THE ABOVE DESCRIBED EASEMENT AS ARE NOT HEREIN EXPRESSLY PROHIBITED BY AND ARE NOT INCONSISTENT WITH THE RIGHTS AND EASEMENT HEREBY GRANTED.

TO HAVE AND TO HOLD

THE ABOVE GRANTED EASEMENT, RIGHT-OF-WAY, STORM SEWER AND APPURTENANCES AND FURTHER ADDITIONS INSTALLED BY GRANTOR TO SAID STORM SEWER AND APPURTENANCES IN, OVER AND SUBJECT TO ABOVE DESCRIBED PREMISES, FOR THE PURPOSE ABOVE MENTIONED UNTO SAID GRANTEEES FOREVER.

IT IS THE INTENT OF THIS CONVEYANCE THAT NEITHER THE FILING OF THIS DEED OR CONVEYANCE, ITS ACCEPTANCE BY THE GRANTEEES NOR ANY OTHER CIRCUMSTANCE SHALL BE CONSTRUED AS A DEDICATION OF OR AS AN AGREEMENT BY THE GRANTEEES TO ACCEPT FOR DEDICATION THE PREMISES HEREIN DESCRIBED FOR PUBLIC USE AS A STREET.

AND THE GRANTOR DOES FOR ITSELF, ITS SUCCESSORS AND ASSIGNS COVENANT WITH THE SAID GRANTEEES AND ITS SUCCESSORS AND ASSIGNS THAT AT AND UNTIL THE SEALING OF THESE PRESENTS, IT IS WILL SEIZED OF THE ABOVE DESCRIBED PREMISES AS A GOOD AND INDEFEASIBLE ESTATE IN FEE SIMPLE AND HAS GOOD RIGHT TO BARGAIN AND GRANT THE SAME IN MANNER AND FORMS AS ABOVE WRITTEN AND THAT IT WILL WARRANT AND DEFEND SAID PREMISES WITH THE

APPURTENANCES THEREUNTO BELONGING TO THE GRANTEE, THEIR SUCCESSORS AND ASSIGNS AGAINST ALL LAWFUL CLAIMS AND DEMANDS WHATSOEVER FOR THE PURPOSE HEREIN DESCRIBED.

IT IS AGREED THAT WHATEVER PARTY IS NAMED IN THIS INSTRUMENT THERE SHALL BE INTENDED AND INCLUDED, IN EACH CASE, THAT PARTY, HIS OR HER HEIRS, ADMINISTRATORS, ITS SUCCESSORS, AND/OR ASSIGNS.

IN WITNESS WHEREOF, THE UNDERSIGNED HAVE HEREUNTO SET THEIR HANDS AT _____, OHIO THIS ____ DAY OF _____, 199__.

SIGNED IN THE PRESENCE OF: GRANTOR:

STATE OF OHIO }
COUNTY OF _____ } SS

BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED THE ABOVE NAMED _____ WHO ACKNOWLEDGE THAT THEY DID SIGN THE FOREGOING INSTRUMENT AND THAT THE SAME IS THEIR FREE ACT AND DEED, PERSONALLY AND AS SUCH OFFICERS AND THE FREE ACT AND DEED OF SAID CORPORATION.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL AT _____, OHIO THIS ____ DAY OF _____, 199__.

NOTARY

MY COMMISSION EXPIRES _____

THE LEGAL FORM OF THE WITHIN INSTRUMENT IS APPROVED:

DATE
LAW DIRECTOR
VILLAGE OF RICHFIELD

APPROVED BY THE COUNCIL OF THE VILLAGE OF RICHFIELD

BY RESOLUTION NO. _____ PASSED _____, 19__.

DATE
CLERK

ELEWSKI & ASSOCIATES, INC.
CIVIL, MUNICIPAL ENGINEERING CONSULTANTS

E-2456

7311 VALLEY VIEW DRIVE INDEPENDENCE, OHIO 44131

(216) 447-0175 FAX (216) 447-3077

March 15, 1996

LEGAL DESCRIPTION
OF A STORM SEWER AND DRAINAGE EASEMENT
ACROSS LAND CONVEYED TO DALE AND KIMBERLY KAPSAR
VILLAGE OF RICHFIELD

Situated in the Village of Richfield, County of Summit and State of Ohio and known as being part of that land conveyed to Dale and Kimberly Kapsar by deed recorded in Volume 7111, Page 757 of Summit County Records, of part of Original Richfield Township Lot 20, Tract 1, bounded and described as follows:

Beginning in the easterly line of Humphrey Road, 60 feet wide, at its intersection with the northerly line of said land conveyed to Dale and Kimberly Kapsar;

Thence South 00°10'39" East, along said easterly line, 23.00 feet to the principal Point of Beginning of the easement described herein;

Thence North 89°49'21" East, 15.00 feet to a point;

Thence South 00°10'39" East, 20.00 feet to a point;

Thence South 89°49'21" West, 15.00 feet to the easterly line of Humphrey Road;

Thence North 00°10'39" West, along said easterly line, 20.00 feet to the principal Point of Beginning and containing 0.0069 acres (300 square feet) of land, be the same more less but subject to all legal highways. Bearings are to an assumed meridian and are used to denote angles only.

EN

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PROP

EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT

The attached Legal Description designated as the "Temporary Construction Easement" shall become void and of no effect after construction of the storm sewer project is complete.

NOW THIS INDENTURE WITNESSETH: That the grantors in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, and in further consideration of the right and privilege hereinafter given to said Grantors, their successors and assigns, for themselves, their heirs, successors and assigns, do hereby give, grant, bargain and convey to the aforesaid Grantee, the easement and perpetual right to enter upon the aforescribed property or any part thereof, and to remove trees when necessary, and in, under and through the aforescribed property to lay, construct, relay, reconstruct, maintain, operate and use, sewers, which may be public sewers, together with all appurtenances thereto, and also the right to enter upon said property to any part thereof at any time for any of the foregoing purposes and the doing of all things necessary or incident thereto.

It is a condition of this instrument that the Grantee shall restore the surface to the condition existing prior to being disturbed.

IN WITNESS WHEREOF, the Grantor has executed and delivered this Grant of Easement this _____ day of _____, 19 _____.

Signed and acknowledged in the presence of: GRANTOR:

DALE KAPSAR

KIMBERLY KAPSAR

ELEWSKI & ASSOCIATES, INC.
CIVIL, MUNICIPAL ENGINEERING CONSULTANTS

7311 VALLEY VIEW DRIVE INDEPENDENCE, OHIO 44131

(216) 447-0175 FAX (216) 447-3077

March 15, 1996

LEGAL DESCRIPTION
OF A TEMPORARY CONSTRUCTION EASEMENT
ACROSS LAND CONVEYED TO DALE AND KIMBERLY KAPSAR
VILLAGE OF RICHFIELD

Situated in the Village of Richfield, County of Summit and State of Ohio and known as being part of that land conveyed to Dale and Kimberly Kapsar by deed recorded in Volume 7111, Page 757 of Summit County Records, of part of Original Richfield Township Lot 20, Tract 1, bounded and described as follows:

Beginning in the easterly line of Humphrey Road, 60 feet wide, at its intersection with the northerly line of said land conveyed to Dale and Kimberly Kapsar;

Thence easterly, along said northerly line of land conveyed to Dale and Kimberly Kapsar, about 35.00 feet to a point;

Thence South $00^{\circ}10'39''$ East, about 70.00 feet to a point;

Thence South $89^{\circ}49'21''$ West, 35.00 feet to the easterly line of Humphrey Road;

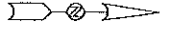
Thence North $00^{\circ}10'39''$ West, along said easterly line, 70.00 feet to the Point of Beginning and containing about 0.0562 acres (2,450 square feet) of land, be the same more or less but subject to all legal highways. Bearings are to an assumed meridian and are used to denote angles only.

SKETCH TO ACCOMPANY A LEGAL DESCRIPTION OF A
TEMPORARY CONSTRUCTION EASEMENT ACROSS LAND
CONVEYED TO DALE & KIMBERLY KAPSAR

IN THE VILLAGE OF RICHFIELD, COUNTY OF SUMMIT
STATE OF OHIO

MARCH 20, 1996
NOT TO SCALE

PREPARED BY:
ELEWSKI AND ASSOCIATES, INC.
7311 VALLEY VIEW DRIVE
INDEPENDENCE, OHIO 44131



O.L. 22
O.L. 19

HUMPHREY ROAD 60'

30'

30'

N00°10'39"W 70.00'

P.O.B.

O.L. 21
O.L. 20

S89°49'21"W
35.00'

TEMPORARY CONSTRUCTION
EASEMENT

35.00' ±

S00°10'39"E 70.00' ±

D.H. & R.L. LARSEN

DALE AND KIMBERLY KAPSAR
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PROPERTY LINE