

RESOLUTION NO.

69-2012

Offered by All of Council

A RESOLUTION OF THE VILLAGE OF RICHFIELD AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO A CONTRACT WITH THE CITY OF CLEVELAND TO PROVIDE WATER METER READING DATA TO COMPUTE VILLAGE SEWER CHARGES

WHEREAS, the City of Cleveland owns and operates a waterworks system under the management and control of its Division of Water, Department of Public Utilities; and

WHEREAS, the City of Cleveland provides water meter reading data, at a cost, to municipal users outside its municipal boundaries; and

WHEREAS, the Council desires to enter into a contract with the City of Cleveland to obtain water meter reading data for use by the Village to compute sewage charges for its billing and collection system.

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

SECTION 1. SECTION 1. The Mayor and Finance Director be, and they hereby are, authorized to enter into a contract with the City of Cleveland to obtain water meter reading data substantially in accordance with the contract attached hereto as "Exhibit A", subject to final approval of the Village Director of Law.

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 including Section 121.22 of the Ohio Revised Code.

SECTION 3. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: 12-4-12

Michael Wheeler
President of Council

Boblio Bashara
Mayor

Dated: 12-4-12

ATTEST:
Carolyn E Sullivan
Clerk of Council

AGREEMENT
BETWEEN
THE CITY OF CLEVELAND
AND
VILLAGE OF RICHFIELD

THIS AGREEMENT is made and entered into this ____ day of _____, 2012, by and between the City of Cleveland, Ohio ("CLEVELAND"), a municipal corporation of the state of Ohio, through its Director of Public Utilities, pursuant to the authority granted by Section 129.21 of the Codified Ordinances of the City of Cleveland, and the Village of RICHFIELD ("RICHFIELD"), a municipal corporation of the state of Ohio, pursuant to Resolution No. _____, passed on _____, 2012.

WHEREAS, CLEVELAND owns and operates a waterworks system under the management and control of its Division of Water, Department of Public Utilities, pursuant to the Constitution and laws of the State of Ohio and the Charter and ordinances of the City of Cleveland; and

WHEREAS, CLEVELAND provides water meter reading data at a cost to municipal users outside its municipal boundaries; and

WHEREAS, RICHFIELD desires to utilize CLEVELAND to obtain water meter reading data to compute sewage charges for its billing and collection system; and

WHEREAS, CLEVELAND is willing to provide water meter reading data to RICHFIELD on the terms, covenants, and conditions hereinafter set forth;

NOW, THEREFORE, for the reasons set forth above, CLEVELAND and RICHFIELD agree as follows:

Section 1. RICHFIELD has identified, and CLEVELAND has approved, the geographic area within which CLEVELAND will provide water meter reading services. This territory, referred to in this Agreement as "contract service area," is identified as all customer accounts supplied by metered public water supply for which sanitary sewer service is provided by RICHFIELD. The contract service area may be amended upon notice to the Director of Public Utilities at least ninety (90) days in advance of the next quarterly billing.

Section 2. CLEVELAND shall read the water meters throughout the contract service area for the purpose of RICHFIELD's computing charges for

sewage service. CLEVELAND may conduct such necessary actions as are required to read the water meters throughout the contract service area for the term of this Agreement. Water service meters are owned and maintained by CLEVELAND and RICHFIELD shall not read meters for the purpose of computing charges for sewage service without prior written approval by the Director of Public Utilities. Upon request, CLEVELAND shall provide RICHFIELD with meter reading data for any and all RICHFIELD accounts, and CLEVELAND shall assign one or more persons to manage such requests, questions, adjustments requested by RICHFIELD, concerns, or other matters relating to any meters read by CLEVELAND for RICHFIELD pursuant to this agreement.

Section 3. CLEVELAND shall provide quarterly water meter reading data to RICHFIELD, upon request, for all property owners supplied by metered public water supply in the contract service area and having a connection with the sewers, or otherwise discharging sewage, either directly or indirectly.

Section 4. RICHFIELD agrees to pay CLEVELAND a meter reading fee rendered per quarter for each customer account upon receiving a customized statement from CLEVELAND. The fee per account covers reading both the water consumption meter and, where applicable, a deduct meter. The meter reading fee is calculated annually by CLEVELAND and it is based on actual costs incurred in a given calendar year for reading a water meter. As of the quarter beginning July 1 2012, the rate per read at which CLEVELAND will invoice RICHFIELD for reading services is \$3.02 per account read. CLEVELAND shall adjust the meter reading fee based on actual costs not more than once per calendar year. All meter reading fees will be based on actual costs unless and until CLEVELAND's fees are derived from a nationally-recognized index-based inflator, at CLEVELAND's discretion. CLEVELAND agrees to provide a statement with each quarterly invoice stating the meter reading data for each account; the name and the address of each customer; the total number of accounts for which the water meters are read; and the total amount of the invoice computed by multiplying the meter reading fee times the number of customer accounts billed in the contract service area during the quarter. RICHFIELD shall pay CLEVELAND the invoiced amount no later than thirty (30) days from the date of the invoice.

CLEVELAND may increase or decrease the cost per read that is charged to RICHFIELD based on an annual review of CLEVELAND's expenses. CLEVELAND shall notify RICHFIELD of any such increase or decrease at least 90 days prior to the change being applied to the next billing cycle. Notwithstanding the foregoing, beginning on January 1, 2013, the rate per read will be \$3.88.

Section 5. RICHFIELD acknowledges that CLEVELAND does not warrant the lawfulness of any sewer, water or special assessment charge of RICHFIELD.

Section 6. CLEVELAND and RICHFIELD mutually agree that the term of this Agreement shall be for a minimum period of five years commencing on the first day after the execution of this Agreement by CLEVELAND, and will automatically continue in effect from year to year thereafter. This Agreement may be cancelled by either party hereto by giving written notice to the other party at least one year prior to the effective date of termination. Any notice of cancellation must be by certified mail, return receipt requested, addressed to the Director of Public Utilities in case of CLEVELAND or the highest ranking official in case of RICHFIELD.

Section 7. Notice of cancellation of this Agreement shall be delivered by certified mail. All other notices shall be delivered by regular mail.

Notice to CLEVELAND required to be given under this Agreement shall be delivered to the following address:

Director of Public Utilities
City of Cleveland
1201 Lakeside Avenue
Cleveland, Ohio 44114

Notices to RICHFIELD required to be given under this Agreement shall be delivered to the following address:

Mayor
Village of Richfield
4410 W. Streetsboro Road
Richfield, Ohio 44286

Section 8. This Agreement, together with the exhibits hereto, constitutes the entire agreement of the parties and the same shall not be changed, modified, discharged or extended except by written instrument executed by both parties hereto pursuant to the laws of the State of Ohio, and the ordinances and the Charter of the City of Cleveland and RICHFIELD's ordinances and Charter. No waiver of any covenant, term or condition of this Agreement shall affect any other covenant, term or condition of this Agreement.

Section 9. In the event any term or provision of this Agreement is for any reason held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other term or provision hereof, and this Agreement will be interpreted and construed as is such term or provision, to the extent the same have been held to be invalid, illegal or unenforceable, had never been contained.

Section 10. Neither a partnership nor a joint venture is created hereby notwithstanding that a portion of the charges imposed by RICHFIELD are paid to CLEVELAND as a fee for water meter reading services rendered. Nothing contained or implied in this Agreement is intended to confer upon any person or entity, other than the named parties, any right or remedy under or by reason of this Agreement.

IN WITNESS WHEREOF, RICHFIELD and CLEVELAND have caused this Agreement to be executed by their duly authorized officers as of the day and year first written above.

CITY OF CLEVELAND

VILLAGE OF RICHFIELD

By: _____
Barry A. Withers , Director
Department of Public Utilities

By: _____

(Title)

The legal form and correctness of this instrument is approved:

The legal form and correctness of this instrument is approved:

Barbara A. Langhenry
Interim Director of Law

Director of Law

By: _____
John P. L. Mills
Assistant Director of Law

By: _____
Assistant Director of Law