

RESOLUTION NO. 2 -2005

Offered by: All of Council

A RESOLUTION ACCEPTING A PERPETUAL RIGHT-OF-WAY AND EASEMENT FROM BRECKSVILLE ROAD ASSOCIATES, LIMITED

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

SECTION 1. That there is hereby accepted a Perpetual Right-of-Way and Easement from Brecksville Road Associates, Limited for water line purposes, a copy of which right-of-way and easement 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: 2-15-05

Barbara Luyford  
President of Council

Michelle Hayes  
Mayor

Dated: 2/15/05

ATTEST:

Carolyn E. Sullivan  
Clerk of Council

## PERPETUAL RIGHT-OF-WAY AND EASEMENT

**BRECKSVILLE ROAD ASSOCIATES, LIMITED**, an Ohio limited liability company, the Grantor herein, for valuable consideration received and to be received to its full satisfaction, do hereby grant and convey to the **VILLAGE OF RICHFIELD** and to the **CITY OF CLEVELAND**, political subdivisions of the State of Ohio and Grantees herein, the perpetual right-of-way and easement for the purposes hereinafter mentioned in the following described premises (the "Premises"):

Situated in the Village of Richfield, County of Summit, and State of Ohio, and known as being part of the Original Lots 11 and 12, Tract 4, and bounded and described as follows:

See Exhibit "A"

Grantor and Grantees agree that all referenced to either party in this instrument shall include that party and the party's heirs, administrators, successors and/or assigns.

In consideration of the mutual covenants contained herein, the Grantor hereby grants and conveys unto the Grantees the right and easement to enter upon the premises to lay, install, and maintain therein a water main and appurtenances, including service connections and pipes; to set all water meters and make all repairs to water mains, service meters and appurtenances which the Grantees deem to be necessary or advisable from time to time; to turn off water to any service connection or water main; or to do any other thing which the Grantees deem to be necessary or advisable in order to operate or maintain said mains, meters, connections, pipes and appurtenances in accordance with the ordinances, rules and regulations of the Grantees which are now in effect or may be adopted hereafter.

In consideration of acceptance of the easement by the Grantees, the Grantor agrees to pay the entire cost of installing a water main and appurtenances upon the premises, which main shall be located not less than nine (9) feet from either lateral limit of the premises. The water main and appurtenances, including valves and hydrants, shall upon completion and approval by the Grantees, become and remain the property of the Grantee, Village of Richfield, and shall be a distribution water main of said Grantee within the purview and subject to the terms of any Water Service Agreement between said Grantee and Grantee, City of Cleveland, not or hereafter in effect.

All service connections shall be installed in accordance with the ordinances, rules and regulations of the Grantees at the expense of the owners of abutting property to others who seek water service thereby. Service connections shall be assigned to specific street mailing addresses by the Grantee, City of Cleveland, when said Grantee receives the official designation of such addresses from Grantee, Village of Richfield.

All water meters shall be furnished and set by Grantee, City of Cleveland, at the expense of Grantor. All water shall be supplied by Grantee, City of Cleveland in the same manner and to the same extent that said Grantee supplies water to properties abutting on public streets in the City of Cleveland.

The Grantor hereby restricts the premises against the construction thereon of any temporary or permanent structures, except that the Grantor may install or cause to be installed sidewalks or pavements, or tunnels, railroad switch tracks, sewers, ducts, pipes or pole lines which cross over or under the premises at an angle of not less than forty-five (45) degrees with the center line of the water main, or which clear the water main by not less than one and one-half (1½) feet above or one and one-half (1½) feet below.

The Grantor agrees to keep the premises free of materials, equipment, vehicles, trees, shrubbery, and any other obstructions which would interfere with Grantees' access to or maintenance of water mains and appurtenances. Grantor further agrees to make no alterations to the premises which would increase the depth of the water main to more than six (6) feet or reduce its depth to less than five (5) feet.

The Grantor agrees to construct a hard surface driveway, of at least fifteen (15) feet in width, adjacent to the water main. The access driveway shall be constructed of concrete or asphalt and shall conform to current ODOT specifications.

If the Grantor desires to alter the premises in any way other than is expressly permitted herein, he must obtain the prior written approval of the Grantees. Upon receipt of such approval, the Grantor shall at his own expense relocate or reconstruct all or any portion of the water main and appurtenances which are affected by such alteration and, where necessary, grant a new easement of not less than fifty (50) feet in width under the same terms and conditions as herein provided. The relocated or reconstructed water main and appurtenances shall, upon completion, and approval by the Grantees, become property of the Grantee, Village of Richfield.

If the Grantor violates any of the provisions of this easement, the Grantees, either jointly or separately, may enter upon the premises to make such alterations as are necessary to bring the premises into compliance with the provisions of this easement.

Whenever maintenance or work of any kind is performed on the premises under the terms of this easement, the Grantees, jointly and separately, shall bear no responsibility for restoration of the premises or their environs to their original topographical condition.

The Grantor indemnifies and holds harmless the Grantees from any and all damage, injury or loss to any person or property caused by, related to or resulting from any leaks in the water main or appurtenances or the maintenance, construction, reconstruction or relocation of said main or appurtenances, other than damage, injury or loss caused by, related to or resulting from the sole negligence of the Grantees. The Grantor further indemnifies and holds harmless the Grantees from any and all expense incurred and damage to the water main and appurtenances caused by, related to or resulting from the Grantor's construction or maintenance of any paving, walks, switch tracks, tunnels, sewers, ducts, pipes or any pole line within or upon the premises or from any other use of the premises by the Grantor.

The Grantor hereby reserves the right to use the premises for the passage or transportation of personnel, materials or equipment, and to make such other use of the premises as is not expressly prohibited by or inconsistent with the terms of this easement.

The Grantor and the Grantees mutually agree that neither the recording of this instrument nor its acceptance by the Grantees shall be construed as a dedication of the premises or an agreement by the Grantees to accept the premises for dedication for public use as a street.

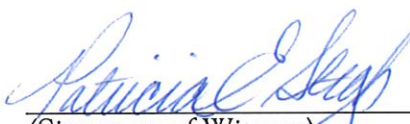
The Grantor covenants with the Grantees that it is well seized of the premises as a good and indefeasible estate in fee simple and has the right to grant and convey the premises in the manner and form above written. The Grantor further covenants that he will warrant and defend the premises with the appurtenances thereunto belonging to the Grantees against all lawful claims and demands whatsoever for the purposes described herein.

To Have and To Hold the above granted easement, right-of-way, water lines, appurtenances and additions installed by the Grantor, for the purposes above mentioned, unto the Grantees forever.


In Witness Whereof, the undersigned have hereunto set their hands at Warrensville Heights, Ohio, this 18<sup>th</sup> day of January, 2005.


Signed in the Presence of:

Grantor: BRECKSVILLE ROAD ASSOCIATES, LIMITED

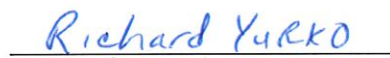
  
\_\_\_\_\_  
(Signature of Witness)

By: RICHFIELD ASSOCIATES, LLC.

  
\_\_\_\_\_  
(Printed Name)

  
\_\_\_\_\_  
Stuart J. Graines, Trustee  
Member

  
\_\_\_\_\_  
(Signature of Witness)

  
\_\_\_\_\_  
(Printed Name)

This Instrument Prepared By:

Stuart J. Graines, Esq.  
4645 Richmond Road, #101  
Cleveland, Ohio 44128  
(216) 766-6000

State of Ohio )  
 ) SS:  
County of Cuyahoga )

Before me, a Notary Public in and for said County and State, personally appeared the above-named BRECKSVILLE ROAD ASSOCIATES, LIMITED, by RICHFIELD ASSOCIATES, LLC, by STUART J. GRAINES, TRUSTEE, its Member, who acknowledged the he did sign the foregoing instrument and that the same is his free act and deed, personally and as such member and the free act and deed of said limited liability company.


In Witness Whereof, I have hereunto set my hand and official seal at Warrensville Heights, Ohio, this 18<sup>th</sup> day of January, 2005.

  
\_\_\_\_\_  
Notary Public

PATRICIA E. STEGH  
Notary Public-State of Ohio  
Recorded in Lake County  
My Commission Expires: 03/06/08

(Seal)

The legal form and correctness of the within instruments is hereby approved:

  
\_\_\_\_\_  
Director of Law  
Village of Richfield

Date: 2/15/2005

Accepted by the Council of the Village of Richfield, by Resolution/Ordinance No.  
\_\_\_\_\_.

Passed: 2-15-05

  
\_\_\_\_\_  
Clerk or Assistant

**LEGAL DESCRIPTION  
FOR A WATER EASEMENT  
AT THE RICHFIELD BUSINESS PARK  
PHASE I**

Situated in the Village of Richfield, County of Summit, State of Ohio, also known as and being part of original Lots 11 and 12, Tract 4 and further bounded and described as follows:

Commencing at the intersection of the East line of Tract 4 and the North line of Summit County, Thence S 02 deg. 50 min. 12" W, along the easterly line of Tract 4 a distance of 1020.00 feet to the northeast corner of property owned by the Brecksville Road Associates, Limited as recorded by instrument #54454944 of the Summit County deed records; Thence S 02 deg. 50 min. 12" W, along the easterly line of said parcel a distance of 250.00 feet to the southeasterly corner thereof; Thence N 87 deg. 09 min. 48" W, along the southerly line of said parcel a distance of 1578.76 feet to the intersection of the southerly property line of said parcel and the easterly right-of-way line of Brecksville Road (66 feet) and being the principal place of beginning of the easement herein described;

Course No. 1 - Thence N. 13 deg. 46 min. 12 sec. E., along the easterly right-of-way of Brecksville Road, a distance of 40.74 feet to a point;

Course No. 2 - Thence S. 87 deg. 09 min. 48 sec. E., parallel and 40 feet from the southerly property line of said parcel, a distance of 220.29 feet to a point;

Course No. 3 - Thence S. 02 deg. 50 min. 12 sec. W., a distance of 5.00 feet to a point;

Course No. 4 - Thence S. 87 deg. 09 min. 48 sec. E., parallel and 35 feet from the southerly property line of said parcel, a distance of 75.00 feet to a point;

Course No. 5 - Thence N. 02 deg. 50 min. 12 sec. E., a distance of 5.00 feet to a point;

Course No. 6 - Thence S. 87 deg. 09 min. 48 sec. E., parallel and 40 feet from the southerly property line of said parcel, a distance of 120.49 feet to a point;

Course No. 7 - Thence S. 02 deg. 50 min. 12 sec. W., a distance of 5.00 feet to a point;

Course No. 8 - Thence S. 87 deg. 09 min. 48 sec. E., parallel and 35 feet from the southerly property line of said parcel, a distance of 75.00 feet to a point;

Course No. 9 - Thence N. 02 deg. 50 min. 12 sec. E., a distance of 5.00 feet to a point;

Course No. 10 - Thence S. 87 deg. 09 min. 48 sec. E., parallel and 40 feet from the southerly property line of said parcel, a distance of 86.74 feet to a point;

Course No. 11 - Thence S. 02 deg. 50 min. 12 sec. W., a distance of 40.00 feet to a point on the southerly property line;

Course No. 12 - Thence N. 87 deg. 09 min. 48 sec. W., along the southerly line of said parcel, a distance of 585.25 feet to the principal place of beginning, containing 0.5167 acres according to a survey done in July of 2002 under the supervision of Scott A. Landgraf, Professional Land Surveyor Number 8085, be the same more or less, but subject to all legal highways and easements of record. Bearings cited within the above description are to an assumed meridian and indicate angles only.



*Scott A. Landgraf*  
\_\_\_\_\_  
Scott A. Landgraf, P.S. #8085                      11/12/02

**APPROVED**

*Roger Davis Swan, 11-13-02*  
\_\_\_\_\_  
Roger Davis Swan, Zoning Inspector  
Village of Richfield, Ohio

RECOMMENDED FOR APPROVAL  
FINKBEINER, PETTIS & STROUT, INC.  
BY *Charles A. Hauber*  
\_\_\_\_\_  
CHARLES A. HAUBER  
DATE 11-12-02

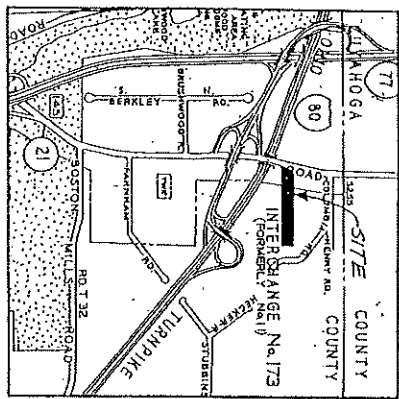
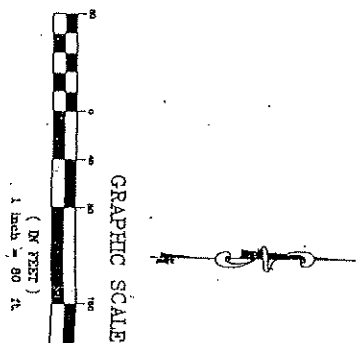
# MAP OF SURVEY FOR WATERMAIN EASEMENT

BRECKSVILLE ROAD ASSOCIATES, LIMITED  
 AS RECORDED BY INSTRUMENT #548444  
 SITUATED IN THE VILLAGE OF RICHFIELD, COUNTY OF SUMMIT  
 STATE OF OHIO  
 NOVEMBER, 2002

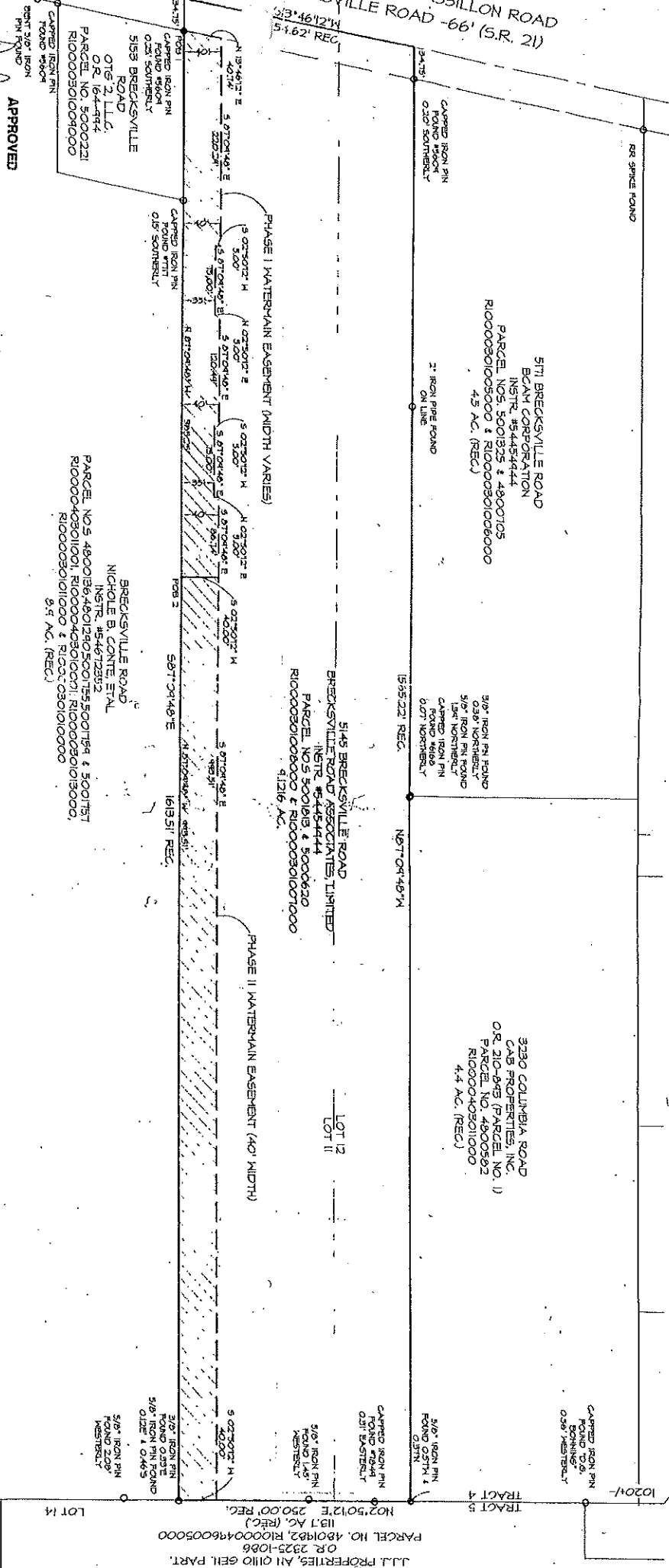
MONUMENTS WERE FOUND OR SET AS INDICATED HEREON. DIMENSIONS ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF. BEARINGS ARE BASED ON AN ASSUMED MERIDIAN AND INDICATE ANGLES ONLY.

### LEGEND OF SYMBOLS

- IRON PIN OR PIPE FOUND (AS NOTED)
- 3/8" CAPRIED IRON PIN SET 5/8" X 30" REBAR CAPRIED TO DEPT. 75 (S.O. 80857)
- MONUMENT BOX FOUND
- SUBJECT PROPERTY LINE
- ADJOINER PROPERTY LINE
- RIGHT OF WAY (R.W.)
- CENTERLINE (C.L.)



OLD CLEVELAND-MASSILLON ROAD  
 BRECKSVILLE ROAD -66' (S.R. 21)



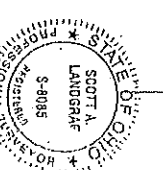
APPROVED

**Scott A. Landgraf**  
 Professional Engineer  
 No. 1113-02  
 Village of Richfield, Ohio

**Melanie A. Davis**  
 Village of Richfield - Service Director  
 No. 11-13-02  
 DATE

**Scott A. Landgraf**  
 Professional Engineer  
 No. 11-13-02  
 DATE

**Scott A. Landgraf**  
 Professional Engineer  
 No. 8-8085  
 DATE 11/7/02



This plat represents a survey which meets the minimum standards for a boundary survey in the State of Ohio as specified in the Administrative Code Chapter 4753-51. Surveyed in July, 2002 by T-K Engineering and Design Group, Inc. under the supervision of Scott A. Landgraf, Professional Surveyor #8085.