

RESOLUTION NO. 52-2005

Offered by All of Council

A RESOLUTION AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO A MODIFICATION OF WATER SERVICE AGREEMENT BETWEEN THE CITY OF CLEVELAND AND THE VILLAGE OF RICHFIELD AND DECLARING AN EMERGENCY

WHEREAS, the City of Cleveland and the Village of Richfield have previously entered into a Water Service Agreement; and

WHEREAS, in connection with the creation of the Joint Economic Development District with Richfield Township, it is necessary to enter into a Modification of the Water Service Agreement with the City of Cleveland.

NOW, THEREFORE, 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 a Modification of Water Service Agreement with the City of Cleveland, 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 economic development and jobs within the State of Ohio and the JEDD District at the earliest possible time; wherefore, provided this Resolution 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: 8/2/05

[Signature]
President of Council

[Signature]
Mayor

Dated: 8/3/05

ATTEST:

[Signature]
Clerk of Council

MODIFICATION OF WATER SERVICE AGREEMENT

BETWEEN

THE CITY OF CLEVELAND

AND

THE VILLAGE OF RICHFIELD

Cleveland Contract No. 32095

**Re: Expansion of Service Area
to include a portion of Richfield Township**

THIS MODIFICATION TO AGREEMENT ("Modification") is entered into this _____ day of _____, 2005, between the City of Cleveland, Division of Water, under the authority of Section 129.16 of the Codified Ordinances, and the Village of Richfield, under the authority of Ordinance No. _____, passed _____.

RECITALS:

- 1) The City of Cleveland ("City") and the Village of Richfield ("Village") entered into a Direct Water Service Agreement on April 16, 1982, known as Cleveland Contract No. 32095 (the "Contract"); and
- 2) The Village and the Township of Richfield ("Township") desire to create a Joint Economic Development District (JEDD) to govern development of property located in the JEDD District in the Township (the "District") and to share the income-tax revenues generated by businesses locating in the JEDD; and
- 3) The Village and the Township desire to obtain Cleveland water service to supply the businesses in the District; and
- 4) The City has agreed to supply water service to the JEDD on the condition that the City receives an equal share of the net revenue generated by income-tax receipts to be divided among the Village and the Township.

5) The City and the Village have entered into an economic development agreement on this date to share in the revenue from taxes that will be generated by commercial development served through the extension of water service to the District under the JEDD agreement between the Village and the Township.

6) The City and the Village desire to expand the service area described in Exhibit "A" attached to the Contract to the District.

AGREEMENT:

I. Expansion of Service Area

A. The City and the Village agree to expand the service area described in Exhibit "A" attached to the Contract to include the portion of the Township of Richfield ("Township") depicted in Exhibit "A" attached to this Modification and made a part of the Contract.

B. There shall be no extension of future water service by the City to areas outside the service area described in this Modification other than by separate written amendment to the water service agreement between the City and the Village or a modification to the Summit County Water Service Agreement.

II. Construction of Distribution Mains

A. The property owners in the Township will construct the water distribution main(s) located within the new service area described in this Modification. The Village will undertake all obligations of the "MUNICIPALITY" as that term is defined and used in the Contract with respect to all water mains and water service to the new service area.

B. The Village agrees to comply and/or require and enforce compliance with Summit County requirements related to the installation and maintenance of water mains and the provision of water service in the Township.

III. JEDD Agreement Between the Village and the Township

The Village and the Township acknowledge that the City is providing water service under this Modification in conjunction with the Richfield Light Industrial/Office Joint Economic Development District Project

Agreement entered into between the Village and the Township, and in consideration of the economic development Agreement between the City and the Village.

IV. Termination

In the event that either the Economic Development Agreement or the JEDD Agreement between the Village and the Township is terminated or is deemed to be unenforceable under any local, state, or federal law, Cleveland shall have the right, upon six months' notice to the Village and the Township, to terminate the Amended Water Service Agreement with the Village, and discontinue water service to the District.

V. Binding Effect

The provisions of this Modification are incorporated into the original Contract. Except as otherwise provided in or as otherwise necessary or appropriate to give effect to the terms of this Modification, all the provisions, terms and conditions contained in the original Contract and not expressly amended by this Modification shall remain unchanged and in full force and effect.

Signed in the presence of:

VILLAGE OF RICHFIELD

By: _____

Title: _____

Approved:

Charles T. Riehl, Director of Law
Village of Richfield

Date

CITY OF CLEVELAND

By: _____
Julius Ciaccia, Jr.
Director of Public Utilities

Approved:

Teresa M. Beasley
Director of Law

By: Katie K. Novak
Assistant Director of Law

Date

**Approved By
TOWNSHIP OF RICHFIELD**

Trustees:

Approved:

John P. Slagter, Special Counsel
Township of Richfield

Date