

A RESOLUTION AUTHORIZING THE MAYOR AND THE FINANCE DIRECTOR TO ENTER INTO A PERFORMANCE AGREEMENT WITH ROYAL PRESTIGE COMPANY, INC. CONCERNING THE DEVELOPMENT OF PHASE III OF THE DEER CREEK DEVELOPMENT

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 Performance Agreement with Royal Prestige Company, Inc. for development of Phase III of the Deer Creek Development, a copy of which agreement 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: January 16, 2001

Michael Lyons
President of Council

Ronald H. Assen
Mayor

Dated: 1/22/2001

ATTEST:

Carole Gibson
Clerk of Council

PERFORMANCE
AGREEMENT

THIS AGREEMENT made this 27th day of February, ²⁰⁰¹~~2000~~, by and between Royal Prestige Company, Inc. (hereinafter "Developer") and the VILLAGE OF RICHFIELD, Ohio, a municipal corporation organized under the laws of the State of Ohio (hereinafter, the "Village").

WITNESSETH:

WHEREAS, Developer is desirous of developing certain lands situated in the Village and known as the Deer Creek Subdivision Phase III ("Deer Creek"); and

WHEREAS, the plat for Deer Creek has heretofore been filed with the Planning Commission of the Village, and said Planning Commission has approved the plat; and

WHEREAS, Developer desires to comply with Ordinance No. 40-1994, as amended, known as the "Subdivision Ordinance of Richfield Village," so that it may proceed with the improvements for Deer Creek; and

WHEREAS, the Planning Commission recommends the execution of this Agreement between the Village and Developer.

NOW, THEREFORE, IT IS AGREED that:

1. Developer will complete the improvements for Deer Creek within a period of two (2) years from the date of approval by the Village of the Performance Bond(s), an irrevocable letter(s) of credit, or any other security acceptable to the Village, for the various portions of construction with proper surety in the amount of one hundred percent (100%) of such cost as a condition of the approval of the Planning Commission, and as a guarantee that such work will be completed. Such cost has been determined by the Engineer for the Village in the amount of \$925,000.00. All improvements are to be done in accordance with the plans and specifications for such improvements

in compliance with all Village Codes and as approved by the Planning Commission and Village Engineer which by reference hereto are made a part hereof and are dated December, 2000.

2. All such improvements shall be inspected during the course of construction and improvement by an inspector appointed by the Service Director, the costs for which and other costs shall be paid by Developer. Developer shall be informed at a current basis of the cost of inspection. The estimated cost of inspection in the amount of \$46,250 shall be deposited with the Village prior to construction commencing; provided, however, that in the event the cost of inspection exceeds the amount on deposit at any time, the Village shall have the right to demand a sum of money to bring the deposit equal to the actual cost of inspection within ten (10) days of written notice upon the Developer. Failure to comply with the written demand to bring the inspection deposit current shall be cause to stop all work upon the improvement until such demand is complied with.

3. The Performance Bond(s), an irrevocable letter(s) of credit, or any other security acceptable to the Village, shall be conditioned upon completion of the improvements as shown on the improvement plans or as amended upon approval by the Village and conditioned that Developer will construct and install all of said improvements at its own expense within two (2) years from the date hereof.

4. Upon completion of the improvements and receipt of the approval of the Village Engineer and before the Performance Bond(s), irrevocable letter(s) of credit or other security is released by the Village, Developer shall submit a Maintenance Bond in an amount equal to ten percent (10%) of the final construction cost to guarantee the workmanship and material for a period of eighteen (18) months following the completion of the improvements.

5. In the event Developer defaults on its obligations hereunder to construct the improvements in accordance with the Village specifications and approval, the Village shall have the

right to collect the proceeds of the financial guarantee and to enter upon the property of Developer to make the appropriate improvements.

6. Developer shall also, prior to commencement of construction, file with the Village a Certificate of Public Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) for personal injuries, including wrongful death due to injuries and subject to the same limit for each person, and an amount of not less than Three Million Dollars (\$3,000,000) on account of any one accident, and property damage insurance with limits of One Hundred Thousand Dollars (\$100,000). This insurance shall be written with an acceptable company authorized to do business in the State of Ohio; shall be taken out before any operations of Developer are commenced; and shall be kept in effect until all operations shall be satisfactorily completed; and title guarantee in the amount of One Thousand Dollars (\$1,000) meeting the approval of the Village Law Director, covering the streets, lands and public improvements to be dedicated to public use, showing the good title to said dedicated streets, lands and public improvements in the name of the Village of Richfield, Ohio.

7. Upon completion of construction of the improvements and approval by the Village Engineer, Developer shall dedicate to the Village all streets, lands and public improvements set forth in the final plat and the Village shall accept such dedication as authorized by a Resolution of Council.

8. Upon completion of the work, Developer shall furnish to the Village "as built" drawings on reproducible material and on magnetic computer storage media in a size and format approved by the Village.

9. Upon execution of the Agreement and the deposit of all items provided herein, the Village will issue building and/or zoning permits provided that the applicants for said permits have met the necessary requirements for the issuance of said permits.

10. This Agreement shall be made a part of and incorporated in any and all bonds that may be issued pursuant hereto.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first written above.

WITNESSES:

Suzanne Kline
Phil W. Bourn

Sammy Garg
Joyce Kemei

Royal Prestige Company, Inc., "Developer"

By: Perry E. Bourn
Perry E. Bourn, President

VILLAGE OF RICHFIELD, OHIO

By: Donald W. Lissen
Its Mayor

And: Cleann Sukaric
Its Finance Director

And: _____
Its Service Director

~~PLANNING COMMISSION~~

By: _____
Chairman

APPROVED AS TO LEGAL FORM.

Charles T. Riehl
Charles T. Riehl, Law Director