

A RESOLUTION AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE TO ENTER INTO A PERMIT FEES AGREEMENT WITH PULTE HOMES OF OHIO, LLC, AND DECLARING AN EMERGENCY

WHEREAS, Richfield Furnace Run Associates LLC (“Richfield Run”), Water and Sewer, LLC and the Village entered into a Development and Construction Agreement dated December 18, 2020, as modified by the First Amendment to Development and Construction Agreement dated December 18, 2020, wherein Richfield Run, Water and Sewer, LLC and the Village agreed to complete certain improvements for the benefit of the New Briarwood Subdivision (the “Development Agreement”); and

WHEREAS, the Development Agreement was assigned, clarified and amended pursuant to that certain Ancillary Agreement to Development and Construction Agreement executed by and between Pulte Home of Ohio LLC (“Pulte”) and the Village, dated July 28, 2021 (the “Ancillary Agreement”); and

WHEREAS, as contemplated in the Development Agreement and Ancillary Agreement, the Village has an obligation to construct a new sanitary sewer system consisting of an approximate 7,000-foot force main and two pump stations at sufficient depth and capacity to serve both the existing Briarwood Subdivision and the New Briarwood Subdivision (the “New Sanitary Sewer”); and

WHEREAS, under the Development Agreement, the construction of the New Sanitary Sewer is conditioned upon the assessment of the cost of the New Sanitary Sewer as set forth in (and subject to the terms and conditions of) the Development Agreement; and

WHEREAS, the assessment process for the New Sanitary Sewer will take upwards of six months to complete and will negatively impact Pulte’s home construction schedule thereby jeopardizing the viability of the project; and

WHEREAS, Pulte and the Village desire to modify the assessment process for the New Sanitary Sewer to enable the construction schedule to proceed in a timely manner; and

WHEREAS, Council has determined that entering into the Permit Fees Agreement with Pulte is necessary and proper and in the best interests of the Village.

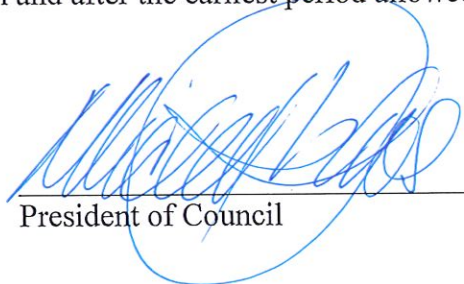
NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, County of Summit, State of Ohio that:

SECTION 1. The Mayor and Director of Finance are hereby directed and authorized to enter into the Permit Fees Agreement with Pulte Homes of Ohio, LLC under substantially the same terms as the draft of the Permit Fees Agreement attached hereto as Exhibit “A” and incorporated fully herein by reference, subject to final approval of the 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 any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

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 it is immediately necessary to execute the Agreement in order to meet the deadlines established by the parties and to ensure the viability of the development project; 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: 11-16-21



President of Council



Mayor

Dated: 11/16/2021

ATTEST:


Clerk of Council

PERMIT FEES AGREEMENT

This PERMIT FEES AGREEMENT ("Agreement") is made and entered into as of November __, 2021 by and between **PULTE HOMES OF OHIO, LLC** ("Pulte") and the **VILLAGE OF RICHFIELD, OHIO** (the "Village").

WHEREAS, Richfield Furnace Run Associates LLC ("Richfield Run"), Water and Sewer, LLC and the Village entered into a Development and Construction Agreement dated December 18, 2020, as modified by the First Amendment to Development and Construction Agreement dated December 18, 2020, wherein Richfield Run, Water and Sewer, LLC and the Village agreed to complete certain improvements for the benefit of the New Briarwood Subdivision (the "Development Agreement"); and

WHEREAS, the Development Agreement was assigned, clarified and amended pursuant to that certain Ancillary Agreement to Development and Construction Agreement executed by and between Pulte and the Village, dated July 28, 2021 (the "Ancillary Agreement"); and

WHEREAS, as contemplated in the Development Agreement and Ancillary Agreement, the Village has an obligation to construct a new sanitary sewer system consisting of an approximate 7,000-foot force main and two pump stations at sufficient depth and capacity to serve both the existing Briarwood Subdivision and the New Briarwood Subdivision (the "New Sanitary Sewer"); and

WHEREAS, under the Development Agreement, the construction of the New Sanitary Sewer is conditioned upon the assessment of the cost of the New Sanitary Sewer as set forth in (and subject to the terms and conditions of) the Development Agreement; and

WHEREAS, the assessment process for the New Sanitary Sewer will take upwards of six months to complete and will negatively impact Pulte's home construction schedule thereby jeopardizing the viability of the project; and

WHEREAS, Pulte and the Village desire to modify the assessment process for the New Sanitary Sewer as provided herein and accordance with the November 11, 2021 Letter attached hereto and expressly incorporated herein as Exhibit "A" to enable the construction schedule to proceed in a timely manner.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration and the mutual benefits contained in the Development Agreement, the Ancillary Agreement and this Agreement, the receipt and legal sufficiency of which are hereby acknowledged, the Village and Pulte hereby agree as follows:

1. Pulte and the Village agree to eliminate the maximum assessment of approximately \$14,136 per home as provided in the Development Agreement for the New Sanitary Sewer by establishing a one-time sanitary sewer permit fee, applicable to all new homes to be constructed in the New Briarwood Subdivision, for a minimum of 130 homes, equal to \$5,200 (inclusive of interest) per home (the "Sewer Permit Fee").

2. Pulte agrees to pay the Sewer Permit Fee at the time Pulte secures permits prior to each home construction.

3. In the event that Pulte does not construct the approved 130 homes as contemplated by the Development Agreement by June 1, 2024, the assessment provisions in the Development Agreement shall remain in effect and the Village shall have the right at that time to impose a special assessment to levy the difference between (a) \$676,000, representing the agreed Sewer Permit Fee (\$5,200) times 130 homes and (b) the total Sewer Permit Fees paid by Pulte to date (the "Sewer Permit Fee Balance") against each of the homes in the New Briarwood Subdivision.

4. All other standard permit fees as shown below will remain unchanged and shall be payable by Pulte for each home as it is constructed:

- Water tap fee –payable to Village of Richfield (need licensed contractor for line installation)
 - 3/4 inch pipe - \$100
 - 1 inch pipe - \$150
- Sanitary sewer permit - \$600/home payable to Village of Richfield (need licensed contractor)
- Zoning permit - \$600/home payable to Village of Richfield
- Right of way permit – \$50 per lot payable to Village of Richfield

5. Pulte acknowledges that the Sewer Permit Fee provided herein, and all other permit fees attributable to each home, are not and shall not be "Reimbursable Costs" subject to reimbursement pursuant to the Reimbursement Agreement by and between Pulte and the Village. In the event more than 130 homes are constructed in the New-Briarwood Subdivision, the Sewer Permit Fee shall continue to be due and payable for each home.

6. This Agreement shall be binding upon and enforceable against Pulte and any of its successors and assigns, including without limitation any person who hereafter constructs a new home in the Briarwood Subdivision.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives and officers as of the date set forth above.

PULTE HOMES OF OHIO LLC

By: _____
Brad Piroli, Vice President of Land Acquisition

Date: _____

VILLAGE OF RICHFIELD, OHIO

By: _____

Its: Mayor

Date: _____

By: _____

Its: Finance Director

Date: _____

APPROVED AS TO LEGAL FORM:

Alejandro V. Cortes, Director of Law
Village of Richfield



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Mr. Jim O'Connor
Director of Planning
Pulte Homes
387 Medina Road, Suite 1700
Medina, Ohio 44256

November 11, 2021

Dear Mr. O'Connor,

The Village has been working toward construction of a sanitary sewer force main and associated pumping stations to service the existing Briarwood residential development. This public project will also provide sanitary sewers to service Pulte's new development, Briarwood Estates. As you are aware, the Village has been planning this utility improvement for several decades and it is close to implementation. However, timing for delivery of the completed system is not aligned with Pulte's home delivery schedule.

This scheduling misalignment stems from several development related issues over the last 12-18 months. Specifically, the delayed annexation has significantly hampered the overall project schedule. Most important with respect to this letter is the delay that has caused to the tax assessment process, which has been the Village's principal method to pay for this approximate \$2.2MM sanitary sewer improvement project.

The municipal tax assessment process will take upwards of six months to complete. If this process provides payment for the project, then the Village can only begin to competitively bid the sanitary sewer project after completion of the process. Below is an approximate schedule the Village will follow to complete the assessment and bidding for its project:

- January 2022 through June 2022 – Complete the assessment process (including assembling an assessment Board by the Mayor);
- June 2022 through July 2022 – Bid and award the sanitary sewer project;
- August 2022 through January 2023 – Construction.

The above referenced schedule does not support home construction in Briarwood Estates in 2022 and thus results in negative implications for both parties.

For approximately the last nine months, you and I have discussed a concept of Pulte Homes potentially assuming the Village's sanitary sewer project, with the Village paying Pulte back for those costs using Tax Increment Financing (TIF) funds. It appears now that both this option and the tax assessment option are not viable. Money (or a process to guarantee the money) must be available for the Village Finance Director to provide a fiscal stamp certifying that the Village has identified how the project will be funded. The tax assessment process is an appropriate process for the Finance Director to provide the fiscal certificate. But we know now that process does not align with Pulte's schedule. However, I do believe there is another possible option to expedite the Village's construction schedule by avoiding the tax assessment process all together.