

RESOLUTION NO.: 57 -2007
INTRODUCED BY: Morgan

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO
A LICENSE AGREEMENT WITH WOODS OF RICHMOND LLC
FOR SUBDIVISION SIGN AND AMMENITIES**

Whereas, the entrance way to the Woods of Richmond subdivision off of Chardon Road in the City is constrained by the narrow right-of-way off of Chardon Road which was established in the original plat from the 1920's and is now known as Washington Drive, being only 50 feet wide; and

Whereas, there is a need for a subdivision identification sign and attractive landscaping for the entrance way into the new Woods of Richmond subdivision and there are no areas outside of the right-of-way within which to place such signage, fencing and landscaping; and

Whereas, the consideration from the Woods of Richmond LLC to the City for a license to use right-of-way areas for this purpose is that Woods of Richmond LLC and/or the Homeowners Association will be required to maintain the landscaped areas on each side of the paved street area the and signage, rather than the City;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: The Mayor is hereby authorized to enter into a certain license agreement for the purposes set forth in the preamble to this Resolution in a form as generally set forth in Exhibit 1 attached to and incorporated herein.

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

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council

EXHIBIT 1
LICENSE AGREEMENT

This License Agreement (“Agreement”) is made as of _____, 2007, between the City of Richmond Heights, Ohio, an Ohio municipal corporation (“Grantor”), whose address is 457 Richmond Road, Richmond Heights, Ohio 44173 and Woods of Richmond LLC, an Ohio limited liability company, whose address is _____ and the Woods of Richmond Homeowners Association, Inc., an Ohio non-profit corporation, whose address is _____ (collectively “Grantee”).

1. Grantor hereby grants to Grantee a license (the “License”) to enter upon and use the real property of Grantor located along Washington Drive near Chardon Road in the City of Richmond Heights, Ohio, and further described in Exhibit “A” attached hereto and incorporated herein by reference (the “Licensed Premises”), for the purpose of permitting encroachments or projections into the public right-of-way for the following purposes and subject to the following conditions:
 - a. For the placement of a fence along both sides of Washington Drive within the Licensed Premises provided that the location of the fence is consistent with the location depicted in Exhibit A and construction and design of the fence is consistent with the specifications described in Exhibit B, both Exhibits attached hereto and incorporated herein by reference; and
 - b. For the placement of a sign at the northwest corner of the intersection of Washington Drive and Chardon Road within the Licensed Premises provided that the location of the sign is consistent with the location depicted in Exhibit A and construction and design of the sign is consistent with the specifications described in Exhibit B and subject to the requirements of all other ordinances of the City of Richmond Heights.
 - c. For the planting of trees, bushes, plants, grass and other vegetation in the Licensed Premises pursuant to a landscaping plan prepared by the Grantee and approved in advance by the City of Richmond Heights Building Commissioner, or his designee.
2. Grantee shall maintain the entire Licensed Premise, including the aforementioned fence, sign, and any trees, bushes, plants, grass and other vegetation planted by Grantee pursuant to the landscaping plan, for the term of this Agreement.
3. Grantee shall use, occupy, repair and maintain the Licensed Premises in a careful, safe and proper manner and in compliance with all relevant federal, state and City ordinances, laws, rules and regulations, all at Grantee’s sole cost and expense. Grantee shall not be permitted to commit any waste, cause any other damage to the Licensed Premises, or use the Licensed Premises for purposes other than those specified in this Agreement. Grantee shall not interfere with the street lighting, pedestrian or vehicular access and free passage, hydrants, public utilities, snow removal other public installations and maintenance of public installations.

4. The License will commence upon approval by Grantor's City Council and the signature of the City's Mayor. Either Grantor or Grantee may terminate this Agreement effective upon 30 days written notice to the other party. Upon termination of the Agreement, Grantee's right to enter upon and use the Licensed Premises shall cease.

5. Grantee shall maintain and keep in full force throughout the term of this Agreement comprehensive general liability insurance against all claims for personal injury, death or property damage occurring on the Licensed Premises with minimum limits of liability of One Million Dollars (\$1,000,000.00) per person, One Million Dollars (\$1,000,000.00) per occurrence and Five Hundred Thousand Dollars (\$500,000.00) for property damage. Grantee shall furnish certificates of insurance evidencing payment thereof to Grantor upon execution of this Agreement and at such additional times as may be requested by the Grantor. Such policies shall name the Grantor as an additional insured. Such policies shall provide that they shall not be cancelled or terminated without at least 30 days' prior written notice to Grantor at the address for notices to Grantor provided herein.

6. Grantee shall indemnify, defend, keep and hold the Grantor and its officers, agents, and employees free and harmless from liability for any and all damages, loss, or penalties of any kind whatsoever incurred as a result of Grantee's conduct or performance under this Agreement or exercise of the Agreement. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, errors and omissions, theft, fire, and all other damages arising out of Grantee's exercise of the Agreement, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement. Such indemnification shall include, but not be limited to, reasonable attorney's fees and costs.

7. Grantee acknowledges that the Licensed Premises is public property and will continue to be used as a public right-of-way.

8. This Agreement shall not be assigned by Grantee except with the prior written consent of the Grantor, which consent shall not be unreasonably denied.

9. The failure of the Grantor to enforce any of the rights given to it under this Agreement by reason of a violation by Grantee of any of the terms of this Agreement shall not be construed as a waiver of the power of the Grantor to exercise any such rights as to any subsequent or different violation.

10. In the event any term of this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of any other term of this Agreement shall in any way be affected thereby.

11. All promises made in this Agreement, including but not limited to indemnification and insurance coverage provisions, shall survive the termination or expiration of this Agreement.

12. This written License Agreement constitutes the entire understanding between the parties, superseding all previous negotiations and discussions, and no modification or alteration of this Agreement shall be binding unless it is in writing and signed by both parties.

13. Service of any communication required or permitted in this Agreement shall be made by personal service or certified mail, return receipt requested, at the addresses listed in the heading or at such other addresses as either party may provide in writing from time to time.

14. This License Agreement shall be governed by the laws of the State of Ohio.

15. Each person executing this Agreement warrants and represents that he or she is authorized to execute this Agreement on behalf of his or her legal entity.

SIGNED as of the date first written above.

GRANTOR:

City of Richmond Heights

By: _____
Daniel J. Ursu, Mayor

GRANTEE:

Woods of Richmond LLC,
an Ohio limited liability company
By: Republic Development LLC

By: _____

Name: _____
(Print or Type)

Its: _____

Woods of Richmond Homeowners
Association, an Ohio non-profit corporation

By: _____

Name: _____
(Print or Type)

Its: _____

Approved as to Legal Form:

R. Todd Hunt, Director of Law

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)
)

Personally came before me this _____ day of _____, 2007, the above named Daniel J. Ursu as the Mayor of the City of Richmond Heights, Ohio, a municipal corporation, and acknowledged he executed the foregoing instrument on behalf of said municipal corporation and by its authority for the uses and purposes set forth herein.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my seal on this day and year aforesaid.

Notary Public

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

BE IT REMEMBERED, That on this _____ day of _____, _____, before me, the subscriber, a Notary Public in and for said county, personally came, **Woods of Richmond LLC**, an Ohio limited liability company, the Grantee in the foregoing License Agreement, by _____, its _____, and acknowledged the signing thereof to be its voluntary act and deed in his/her own name and in the capacity designated.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my seal on this day and year aforesaid.

Notary Public

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)
)

BE IT REMEMBERED, That on this _____ day of _____, _____, before me, the subscriber, a Notary Public in and for said county, personally came, **Woods of Richmond Homeowners Association, Inc**, an Ohio non-profit corporation, the Grantee in the foregoing License Agreement, by _____, its _____, and acknowledged the signing thereof to be its voluntary act and deed in his/her own name and in the capacity designated.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my seal on this day and year aforesaid.

Notary Public

This Instrument Prepared By:

Walter & Haverfield LLP
1301 East 9th Street, Ste. 3500
Cleveland, Ohio 44114