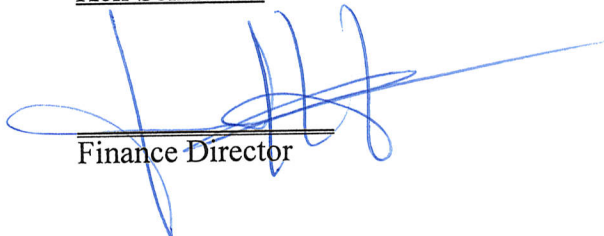


99.158

CERTIFICATE OF MEMBERSHIP

The undersigned, Finance Director of the City of Mason, Ohio hereby certifies that the following were the officers and members of council during the period proceedings were taken authorizing the issuance of not to exceed \$1,600,000 Land Acquisition Bond Anticipation Notes, dated as of the date of their issuance and maturing not more than one year from the date of their issuance:

Mayor	<u>Betty Davis</u>
City Manager	<u>Scot Lahrmer</u>
Finance Director	<u>Jennifer Bauer</u>
Member of Council	<u>James Dick Staten</u>
Member of Council	<u>John McCurley</u>
Member of Council	<u>Peter Beck</u>
Member of Council	<u>William Kidder</u>
Member of Council	<u>Jim Fox</u>
Member of Council	<u>Thomas Muennich</u>
Member of Council	_____
Clerk of Council	<u>Teresa Schulte</u>
Law Director	<u>Ken Schneider</u>



Finance Director

TRANSCRIPT CERTIFICATE

The undersigned, Clerk of Council of said municipality, hereby certifies that the following is a true and complete transcript of all proceedings relating to the authorization and issuance of the above identified obligations.



Clerk of Council

ORDINANCE NO. 99-158

**AN ORDINANCE PROVIDING FOR THE ISSUANCE OF
NOT TO EXCEED \$1,600,000 OF NOTES BY THE
CITY OF MASON, OHIO, IN ANTICIPATION
OF THE ISSUANCE OF BONDS, FOR THE PURPOSE
OF ACQUIRING LAND FOR COMMERCIAL
AND/OR INDUSTRIAL DEVELOPMENT.**

WHEREAS, the fiscal officer of the City has estimated the life or period of usefulness of the hereinafter described capital improvements as at least five (5) years, and certified the maximum maturity of the bonds as twenty (20) years, and of the notes to be issued in anticipation thereof as twenty (20) years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio:

SECTION 1. That it is necessary to issue bonds of the City of Mason, Ohio, in the principal amount of not to exceed \$1,600,000, for the purpose of purchasing approximately one hundred five (105) acres of land on State Route 741. Said bonds shall be dated approximately October 1, 2000, shall bear interest at an approximate rate of six (6%) per annum, and shall mature in substantially equal annual or semiannual installments over a period not exceeding twenty (20) years after their issuance.

SECTION 2. That it is necessary to issue notes in anticipation of such bonds in the aggregate principal amount of not to exceed \$1,600,000.

SECTION 3. That said anticipatory notes shall be dated as of the date of their issuance and shall mature not more than one year from the date of their issuance and shall bear interest at such rate of interest all payable at maturity as is set forth in the purchase contract hereafter discussed. The notes shall be callable upon fifteen (15) days notice to the Purchaser (hereafter defined) at a redemption price of one hundred percent (100%) of the principal amount plus interest to the date of redemption.

SECTION 4. That said notes shall be executed by the Mayor or Vice Mayor, City Manager and Finance Director and may, but shall not be required to, bear the seal of the corporation. Said notes shall be designated "Land Acquisition Bond Anticipation Notes", shall be payable at such bank or trust company that is a correspondent of any legal depository of the City, upon approval of the Finance Director, and shall express upon their faces the purposes for which they are issued and that they are issued in pursuance of this ordinance. Said notes shall be of such number and denomination as requested by the purchaser; provided that the notes shall be issued only in Authorized Denominations, which shall be \$100,000 or any integral multiple of \$5,000 in excess of \$100,000. This Council hereby covenants that it will not exchange or reissue the notes in less than Authorized Denominations other than through a "primary offering", as that term is defined in SEC Rule 15x2-12.

SECTION 5. That said notes shall be issued in the principal sum of not to exceed \$1,600,000, for the purposes aforesaid. Said notes shall be sold to Seasongood & Mayer, Cincinnati, Ohio (the "Purchaser") at the price of par plus accrued interest, if any. The amount, interest rate or rates and other terms of the notes shall be as set forth in the purchase contract (the "Purchase Contract") which the City Manager or Finance Director is hereby authorized and directed to execute without further action of this council and which Purchase Contract shall be executed by the Purchaser. The signature of the City Manager or Finance Director on the Purchase Contract shall be conclusive evidence that the terms of the said notes are acceptable to the City.

SECTION 6. That the Mayor, the City Manager and the Finance Director, or any one of them, is authorized to take all necessary steps and execute and deliver any documents necessary or appropriate to render the notes eligible for the services of The Depository Trust Company ("DTC"), including "book-entry only" status, if so requested by the Purchaser.

SECTION 7. That said notes shall be the full general obligation of this City, and the full faith, credit and revenue of this City are hereby pledged for the prompt payment of the same. The par value received from the sale of bonds anticipated by said notes, and any excess fund resulting from the issue of said notes, shall, to the extent necessary, be used only for the retirement of said notes at maturity, together with interest thereon and is hereby pledged for such purpose.

SECTION 8. That during the period while such notes run there shall be levied upon all of the taxable property in the City of Mason, Ohio, in addition to all other taxes, a direct tax annually, not less than that which would have been levied if bonds had been issued without the prior issue of such notes; said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof; provided, however, to the extent that other funds are available and appropriated for the payment of the obligation or the bonds in anticipation of which they are issued, said tax need not be levied.

The funds derived from said tax levy hereby required shall be placed in a separate and distinct fund and, together with interest collected on the same, shall be irrevocably pledged for the payment of the principal and interest of said notes, of the bonds in anticipation of which they are issued, when and as the same fall due.

SECTION 9. That this council, for and on behalf of the City of Mason, County of Warren, Ohio, hereby covenants that it will restrict the use of the proceeds of the notes hereby authorized in such manner and to such extent, if any, and take such other action as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute obligations the interest on which is subject to federal income taxation or "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations prescribed thereunder. The Finance Director or any other officer having responsibility with respect to the issuance of the notes is authorized and directed to give an appropriate certificate on behalf of the City, on the date of delivery of the notes for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds thereof and the provisions of said Sections 103(b)(2) and 148 and regulations thereunder.

These notes are hereby designated "qualified tax-exempt obligations" for the purposes set forth in Section 265(b)(3) of the Code as the Council does not anticipate issuing more than \$10,000,000 of "qualified tax-exempt obligations" during the current calendar year.

SECTION 10. That the Council of the City of Mason, Ohio, hereby covenants that it will cause the redemption of the notes in whole in the event that the City of Mason, Ohio leases or sells all or any portion of the land to be purchased with the proceeds of such notes to a person or other entity which is not the State of Ohio or a political subdivision of the State of Ohio.

SECTION 11. That the Finance Director is hereby directed to forward a certified copy of this ordinance to the County Auditor of the County of Warren, Ohio.

SECTION 12. That the Council of the City of Mason, Ohio, hereby finds and determines that all formal actions relative to the adoption of this ordinance were taken in an open meeting of the council of the City and that all deliberations of the council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Revised Code.

SECTION 13. That this ordinance shall take effect at the earliest date permitted by law after its passage.

PASSED: October 11, 1999.

Robert Davis
Mayor

Attest:

[Signature]
Clerk of Council

CERTIFICATE

The undersigned, Clerk of Council of the City of Mason, Warren County, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 99-158 passed by the Council of the City of Mason, Ohio, on _____, 1999.

Clerk of Council

CERTIFICATE

The undersigned, Finance Director of the City of Mason, County of Warren, Ohio, hereby certifies that a copy of the foregoing Ordinance No. _____ passed by the Council of the City of Mason, County of Warren, Ohio, on _____, 1999, was certified this day to the County Auditor of the County of Warren, Ohio.

[Signature]
Finance Director

RECEIPT

The undersigned, County Auditor of the County of Warren, Ohio, hereby acknowledges receipt this day of the foregoing Ordinance No. 99-158 passed by the Council of the City of Mason, County of Warren, Ohio, on Oct 11, 1999.

Nick Nelson
County Auditor

By: Debbie Garry
Deputy

Oct 14, 1999

EXTRACT FROM MINUTES OF MEETING

The Council of the City of Mason, County of Warren, Ohio, met in regular session, at 7:00 P.m., on the 11th day of October, 1999, at Council Chambers, with the following members present:

All present

There was presented and read to Council Ordinance No. 99-158, entitled:

**AN ORDINANCE PROVIDING FOR THE ISSUANCE OF
NOT TO EXCEED \$1,600,000 OF NOTES BY THE
CITY OF MASON, OHIO, IN ANTICIPATION
OF THE ISSUANCE OF BONDS, FOR THE PURPOSE
OF ACQUIRING LAND FOR COMMERCIAL
AND/OR INDUSTRIAL DEVELOPMENT.**

Mr. Muenrich moved to suspend the rule requiring each ordinance or resolution to be read on three different days. Mr. Fox seconded the motion and, the roll being called upon the question, the vote resulted as follows:

All yeas.

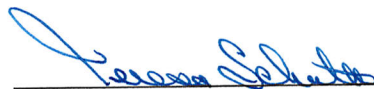
Mr. Muenrich then moved that Ordinance No. 99-158 be adopted. Mr. Fox seconded the motion and, the roll being called upon the question, the vote resulted as follows:

All yeas.

The ordinance was declared passed October 11, 1999.

CERTIFICATE

The undersigned, clerk of council of said municipality, hereby certifies that the foregoing is a true and correct extract from the minutes of a meeting of the council of said municipality, held on the 11th day of October, 1999, to the extent pertinent to consideration and adoption of the above-entitled legislation.



Clerk of Council

**FINANCIAL STATEMENT
MUNICIPALITY
SECTION 133.05, O.R.C.**

STATE OF OHIO)
) SS
COUNTY OF WARREN)

I, JENNIFER HEFT, OF THE MUNICIPALITY OF MASON, STATE OF OHIO, DO HEREBY CERTIFY THAT THE FOLLOWING STATEMENTS CONCERNING THE FINANCES OF SAID MUNICIPALITY ARE TRUE AND CORRECT AS THEY APPEAR FROM THE RECORDS IN MY OFFICE.

1	ASSESSED VALUATION of the taxable property of the municipality, as shown on the tax duplicate for <u>1999</u>	<u>\$ 480,000,000.00</u>
2	Total of all bonds and notes or other evidence of indebtedness and outstanding, INCLUDING THE PRE: <u>\$ 1,600,000.00</u>	<u>\$ 25,597,000.00</u>
3	EXEMPT DEBT:	
(A)	Securities issued under Chapter 122., 140., 725., or 761., or Section 131.23, O.R.C.	<u>\$ -</u>
(B)	Securities issued to pay costs of permanent improvements to the extent they are issued in anticipation of the receipt of, and are payable as to principal from, federal or state grants for that principal or for the costs of those permanent improvements	<u>\$ -</u>
(C)	Securities issued to evidence loans from the state capital improvements fund pursuant to Chapter 164, O.R.C.	
(D)	Other securities, including self-supporting securities, excepted by law from the calculation of net indebtedness or from the application of Chapter 133, O.R.C.	<u>\$ -</u>
(E)	Any other securities outstanding on October 30, 1989, and then excepted from the calculation of net indebtedness or from the application of Chapter 133, O.R.C. and securities issued at any time to fund or refund those securities	<u>\$ -</u>
(F)	Self-supporting securities issued for any purposes including, without limitations, any of the following general purposes:	
	(a) Water systems or facilities;	<u>\$ 8,075,000.00</u>
	(b) Sanitary sewage systems or facilities, or surface and storm water drainage and sewage systems or facilities or a combination of those systems or facilities;	<u>\$ 7,600,000.00</u>
	(c) Electric plants and facilities and steam or cogeneration facilities that generate or supply electricity, or steam and electrical or steam distribution systems and lines;	<u>\$ -</u>
	(d) Airports or landing fields or facilities;	<u>\$ -</u>
	(e) Railroads, rapid transit and other mass transit systems;	<u>\$ -</u>
	(f) Off-street parking lots, facilities or buildings or on-street parking facilities, or any combination of off-street and on-street parking facilities;	<u>\$ -</u>
	(g) Facilities for the care or treatment of the sick or infirm, and for housing and persons providing such care or treatment and their families;	<u>\$ -</u>
	(h) Solid waste or hazardous waste collection or disposal facilities, or resource recovery and solid or hazardous waste recycling facilities, or any combination of those facilities;	<u>\$ -</u>
	(i) Urban development projects;	<u>\$ -</u>
	(j) Recreational, sports, convention, auditorium, museum, trade show, and other public attraction facilities;	<u>\$ -</u>
	(k) Facilities for natural resources exploration, development, recovery, use and sale;	<u>\$ -</u>
	(l) Correctional and detention facilities, including multi-county municipal jails, and related rehabilitation facilities;	<u>\$ -</u>
	(m) Other self-supporting securities;	<u>\$ -</u>
(G)	Securities issued for the purpose of purchasing, constructing, improving, or extending water or sanitary or surface and storm water sewerage systems or facilities, or a combination of those systems or facilities, to the extent that an agreement entered into with another subdivision requires the other subdivisions to pay to the municipal corporation amounts equivalent to debt charges on the securities	<u>\$ -</u>
(H)	Securities issued under order of the director of health or director of environmental protection under Section 6109.18, O.R.C..	<u>\$ -</u>
(I)	Securities issued under Section 3, 10, or 12 of Article XVIII, Ohio Constitution	<u>\$ -</u>
(J)	Securities that are not general obligations of the municipal corporation	<u>\$ -</u>
(K)	Voted securities issued for the purposes of urban redevelopment to the extent that their principal amount does not exceed an amount equal to two percent of the tax valuation of the municipal corporation	<u>\$ -</u>
(L)	Unvoted general obligation securities to the extent that the legislation authorizing them includes covenants to appropriate annually from lawfully available municipal income taxes, and to continue to levy and collect municipal income taxes in, amounts necessary to meet the debt charges on those securities	<u>\$ -</u>
(M)	Self-supporting securities issued prior to July 1, 1977, under Chapter 133, O.R.C.. for the purpose of municipal university residence halls to the extent that revenues of the successor state university allocated to debt charges on those securities from sources other than municipal excises and taxes, are sufficient to pay those debt charges	<u>\$ -</u>

(N) Special assessment bonds or notes issued in anticipation of the levy or collection of special assessments, either in original or refunded form.	<u>\$ 1,667,000.00</u>
(O) Securities issued in anticipation of the collection of current revenue for the fiscal year or other period not to exceed twelve consecutive months, or securities issued in anticipation of the collection of the proceeds from a specifically identified voter approved tax levy	<u>\$ -</u>
(P) General Obligation Securities issued for purposes under Section 133.12, O.R.C.	<u>\$ -</u>
(Q) Bonds issued to pay final judgement or court approved settlements under authorizing laws and securities issued under Section 2744.081, O.R.C.	<u>\$ -</u>
(R) Other types of exempt debt: Specify:	<u>\$ -</u>
TOTAL	<u>\$ 17,342,000.00</u>
4 Total bonds and notes subject to 10-1/2% limitation (2 minus 3)	<u>\$ 8,255,000.00</u>
(A) Amount in sinking fund or bond retirement fund applicable to the payment of principal:	<u>\$ -</u>
(B) Net amount subject to 10-1/2% limitation:	<u>\$ 8,255,000.00</u>
5 Bonds and notes included in item 4 above but issued WITHOUT AUTHORITY OF AN ELECTION	<u>\$ 8,255,000.00</u>
(A) Amount in sinking fund or bond retirement fund applicable to the payment of principal:	<u>\$ -</u>
(B) Net amount subject to 5-1/2% limitation:	<u>\$ 8,255,000.00</u>
6 Bonds and notes included in items 4 and 5 above, issued during PRESENT CALENDAR YEAR WITHOUT AUTHORITY OF AN ELECTION:	<u>\$ 3,100,000.00</u>

I FURTHER CERTIFY (a) that the income from the waterworks, sewer system, off-street parking and other revenue producing facilities for which bonds were issued as included in item 3(F) above is sufficient to cover all operating expenses of such facilities and interest charges on such bonds and to provide a sufficient amount for retirement or sinking fund to retire \$ _____ principal amount of such bonds as they become due, and (B) that revenues of the municipal university or of the municipal recreational facilities, from sources other than taxation, are sufficient to pay all operating expenses of the residence halls or recreational facilities, and the principal and interest on \$ _____ principal amount of bonds included in item 3(M) above, as they become due.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 14 day of October, 1999



 Name

 Finance Director

 Title

**TEN - MILL CERTIFICATE
FOR POLITICAL SUBDIVISIONS ISSUING UNVOTED GENERAL OBLIGATION BONDS AND NOTES**

The undersigned, COUNTY AUDITOR of WARREN COUNTY, OHIO, hereby certifies in connection with a proposed issue of Bonds, Notes of the _____ City _____ of Mason _____ in the principal amount of \$ 1,600,000.00 dated _____, 1999, that the tax rates required to produce the highest annual debt charges for the proposed issue and all other issues of said subdivision and the subdivisions overlapping it, which are payable from taxes subject to the 10 mill limitation of Article XII, Section 2, Ohio Constitution, based upon the facts hereinafter set forth and assuming that all levies were to be made therefor on the general tax duplicate are as follows:

Overlapping Subdivisions	County	Assessed Valuation	Bonds and Notes Outstanding	Present Principal Amount	Debt Charges for fiscal year in which they will total the highest, to-wit, 2000 For Principal	For Interest	Required Tax Rate for Two Previous Columns
Warren	County	\$ <u>2,800,075,833.00</u>	(a) Special Assessment bonds & notes in original or refunded form:	\$ <u>13,644,893.00</u>	\$ <u>952,631.00</u>	\$ <u>744,719.00</u>	<u>0.6062</u> MILLS
			(b) All other bonds & notes payable from or secured by taxes inside 10 mill limitations:	\$ <u>13,108,107.00</u>	\$ <u>299,369.00</u>	\$ <u>426,684.00</u>	<u>0.2593</u> MILLS
Mason	City or Village	\$ <u>480,537,743.00</u>	(a) Special Assessment bonds & notes in original or refunded form:	\$ <u>1,667,000.00</u>	\$ <u>167,000.00</u>	\$ <u>111,431.00</u>	<u>0.5794</u> MILLS
			(b) All other bonds & notes payable from or secured by taxes inside 10 mill limitation:	\$ <u>7,405,000.00</u>	\$ <u>335,000.00</u>	\$ <u>343,943.00</u>	<u>1.4129</u> MILLS
Kings	School District	\$ <u>432,180,337.00</u>	Bonds & notes payable from taxes inside 10 mill limitation:				<u> </u> MILLS
	Township (if any)		(a) Special Assessment bonds & notes in original or refunded form:	\$ <u>645,000.00</u>	\$ <u>64,500.00</u>	\$ <u>38,700.00</u>	<u>0.2388</u> MILLS
				Proposed issue:	\$ <u>80,000.00</u>	\$ <u>96,000.00</u>	<u>0.3663</u> MILLS
							<u>3.4629</u> MILLS
							TOTAL

Dated this _____ 18th _____ day of _____, 1999


Nick Nelson, Warren County Auditor

PECK, SHAFFER & WILLIAMS
BOND ATTORNEYS
CINCINNATI, OHIO

PURCHASE AND SALE AGREEMENT
BETWEEN
CITY OF MASON, OHIO, as Purchaser
AND
NORTHEAST ASSOCIATES, as Seller

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PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT made and entered into as of this _____ day of October, 1999, by and between NORTHEAST ASSOCIATES, an Ohio general partnership, whose principal office is located at 9501 Union Cemetery Road, Loveland, Ohio 45140 ("Seller") and THE CITY OF MASON, OHIO, a municipal corporation, 202 W. Main Street, Mason, Ohio 45040, ("Purchaser").

Seller agrees to sell, convey and transfer to Purchaser and Purchaser agrees to purchase and acquire from Seller the real property in the amount of 105.499 acres located in the City of Mason, Warren County, Ohio, and more specifically described on Exhibit "A", attached hereto and incorporated herein by reference, including the buildings and fixtures thereon, and appurtenances thereto, if any, (hereinafter collectively referred to as the "Property").

Purchaser and Seller desire to complete the sale and purchase of the Property on the terms and conditions set forth in this Agreement.

IN CONSIDERATION THEREOF, Purchaser and Seller agree as follows:

1. Sale and Conveyance of Property.

Purchaser agrees to purchase from Seller and Seller agrees to sell and convey to Purchaser all of Seller's right, title and interest in and to the Property and all property, tangible and intangible, located thereon at the price and upon such other terms and conditions as are set forth herein. Seller shall convey the Property to Purchaser by general warranty deed, conveying marketable title to the Property free, clear and unencumbered, subject only to easements and restrictions of record.

2. Purchase Price.

The purchase price for the Property sale shall be One Million Five Hundred Eighty-Two Thousand Four Hundred Eighty-Five and no/100 Dollars (\$1,582,485.00) (the "Purchase Price") based on the rate of Fifteen Thousand Dollars (\$15,000.00) per acre. Any adjustment to the acreage of the Property shall result in a corresponding adjustment to the Purchase Price. The Purchase Price shall be payable by Purchaser to Seller as follows:

- (a) Ten Thousand Dollars (\$10,000.00) earnest money to be applied toward the Purchase Price and to be deposited with Seller upon acceptance of this contract.
- (b) One-half of the balance of the Purchase Price, or \$791,242.50, shall be paid by cash or certified, cashier's, attorney or title company trust account check on the date of closing.

- (c) The balance of the Purchase Price, or \$791,242.50, shall be paid on or before January 15, 2000.

3. **Condition of Property.**

Upon delivery of the Property to Purchaser, Seller agrees that the property shall be in the same condition as on the day of this Agreement, ordinary wear and tear excepted.

4. **Closing and Possession.**

- (a) Closing shall take place on or before October 31, 1999, or at such other time mutually agreed upon, in writing, between Purchaser and Seller (hereinafter "Closing Date").
- (b) Seller shall transfer complete possession of the Property to Purchaser on the Closing Date.
- (c) In the event Seller is unable to deliver the Property to Purchaser in compliance with all the terms and conditions of this Agreement on or before the Closing Date, Purchaser shall have the option of extending the time for the Seller's completion of its obligations under this Agreement. Any extensions of the Closing Date of this Agreement to Purchase must be in writing and signed by a duly authorized representative of the Purchaser. Purchaser and Seller agree and acknowledge that Purchaser is not under any obligation to extend the terms of this Agreement.

5. **Seller's Environmental Representations and Warranties.**

Seller hereby makes the following representations and warranties to Purchaser relating to environmental conditions affecting the Property. Seller's representations and warranties shall be deemed made and effective as of the date of this Agreement and as of the date of closing. Seller hereby represents and warrants that, to the best of its knowledge:

- (a) Seller is in compliance with all applicable federal, state and local laws, administrative rulings, regulations and regulatory approvals relating to the protection of the environment and relating to or arising out of Seller's operation of the Property.
- (b) No toxic, explosive or otherwise dangerous materials or hazardous substances or petroleum have been concealed within, buried beneath or released on or from the Property by Seller or any servant, employee, agent, or other representative of Seller acting at the direction or with the knowledge or consent of Seller, nor have any toxic, explosive or dangerous materials or hazardous substances or petroleum ever been removed from the Property by Seller or any servant, employee, agent, or other

representative of Seller acting at the direction or with the knowledge or consent of Seller and thereafter stored off-site of the Property.

- (c) There are no underground storage tanks located on the Property.
- (d) All underground storage tanks, if any, removed from the Property have been removed in accordance with applicable laws and regulations.
- (e) The contents of any underground storage tanks on the Property, if any, have been disposed of in accordance with applicable laws and regulations.
- (f) There are no asbestos-containing materials located in, on or at the Property.
- (g) There is no lead-based paint in any of the buildings on the Property.
- (h) There are no polychlorinated biphenyls (PCB's) in, on or at the Property.
- (i) Seller has not received any notices or claims from governmental authorities or third parties relating to the environmental condition or status of the Property or any other properties which may be affected by the Property.
- (j) These representations and warranties shall survive the closing and sale of the Property to Purchaser for a period of one (1) year.

6. **Seller's General Representations and Warranties.**

Seller hereby makes the following representations and warranties to Purchaser as of the date of this Agreement and as of the date of closing. All representations and warranties of Seller made in this Agreement or as provided herein shall survive the Closing Date. Seller represents and warrants that:

- (a) By entering into this transaction, Seller has not breached any contracts and/or agreements to which Seller is a party.
- (b) There are no pending or threatened assessments or proceedings to collect assessments relating to the Property.
- (c) Seller is in compliance with all state, federal and local laws relating to its use and ownership of the Property.
- (d) Seller has not received any notices that it is in violation of any restrictions or easements affecting the Property.

- (e) There is no pending or threatened litigation affecting title to the Property.
- (f) Seller has full right and authority to enter into this Agreement and the transaction contemplated hereunder.

7. **Resale of Property.**

Purchaser agrees that for a period of one (1) year from the date of closing, Purchaser will not sell the Property to any third party purchaser for a price greater than the Purchase Price other than for high tech and/or industrial uses, unless Purchaser remits to Seller a payment in the amount of the difference between the Purchase Price and the amount received by Purchaser from the third party purchaser.

8. **Purchaser's General Representations and Warranties.**

Purchaser hereby makes the following representations and warranties to Seller as of the date of this Agreement and as of the date of closing. All representations and warranties of Purchaser made in this Agreement or as provided herein shall survive the Closing Date. Purchaser represents and warrants that:

- (a) The documents executed by the Purchaser and delivered to Seller under the terms of this Agreement have been authorized by Purchaser and, as of the time of closing, will be legal, valid and binding obligations of Purchaser.
- (b) By entering into this transaction, Purchaser has not breached any contracts and/or agreements to which Purchaser is a party.

9. **Assignment.**

Purchaser shall have the right to assign all of his right, title and interest under this Agreement without the consent of Seller. In the event Purchaser elects to assign his interest hereunder, Purchaser shall immediately notify Seller, in writing, of the name and address of the Assignee.

10. **Prorations; Payment of Expenses.**

- (a) The following items shall be prorated and adjusted between Seller and Purchaser as of 11:59 p.m. of the day preceding the Closing Date, except as otherwise specified:
 - i. General real estate taxes based on the most recently ascertainable figures available for the Property;

- ii. All installments of special assessments payable after the Closing Date, whether for work commenced or completed as of the Closing Date or otherwise, shall be paid solely by Purchaser; and
 - iii. All other items required by any other provision of this Agreement to be prorated or adjusted.
- (b) Purchaser shall pay all title insurance premiums and charges and recording fees incurred in connection with any mortgage loans obtained by Purchaser. The parties shall each be solely responsible for the fees and disbursements of their respective counsel and other professional advisers. Seller shall pay the transfer tax imposed by Warren County, Ohio for the sale of the Property.
- (c) Purchaser shall pay any CAUV recoupment required as a result of the transfer of the Property.

11. **Documents to be Produced By Seller.**

Seller shall produce the following documents on or before the Closing Date:

- (a) Fully executed and acknowledged General Warranty Deed, in form acceptable to Purchaser, Purchaser's counsel and the title company issuing title insurance, conveying the property to Purchaser in fee simple absolute, free and clear of all easements, restrictions, reservations, liens and other encumbrances of record, other than those permitted exceptions to be identified by Purchaser. Seller will provide Purchaser's counsel a draft of the Deed prior to closing for approval.
- (b) Partnership Resolution authorizing Seller's actions contemplated by this Agreement and the sale of the Property to Purchaser.
- (c) Title affidavit sufficient to remove the standard exceptions from the title insurance policy.
- (d) Any other documents required by the title company necessary to insure the title to the Property.
- (e) Fully executed FIRPTA affidavit.

12. Documents to be Produced by Purchaser.

- (a) Ordinance authorizing the purchase of the Property from Seller.
- (b) Balance of purchase price as set forth in Paragraph 2 herein.
- (c) Purchaser's promissory note in the amount of \$791,242.50 representing the deferred portion of the Purchase Price.

13. Default; Termination.

- (a) If Seller defaults hereunder prior to Closing, then Purchaser, at Purchaser's option, but provided Purchaser is not in default hereunder, may:
 - i. terminate this Agreement by giving written notice thereof to Seller, whereupon the Earnest Money shall be promptly returned to Purchaser, or
 - ii. assert and seek judgment against Seller for specific performance, or
 - iii. assert and seek judgment against Seller for money damages;

The foregoing remedies shall not be considered Purchaser's sole and exclusive remedies.

- (b) If Purchaser defaults hereunder prior to closing, then Seller, at Seller's option, but provided Seller is not in default hereunder, may terminate this Agreement by giving written notice thereof to Purchaser, whereupon Purchaser shall pay Seller, as liquidated damages, an Agreement Cancellation Fee of \$10,000.00, as Seller's sole and exclusive remedy. The parties acknowledge and agree that Seller's actual damages in the event of Purchaser's default would be uncertain in amount and difficult to ascertain and that the amount of liquidated damages agreed upon herein was reasonably determined and, consequently, does not constitute a penalty.
- (c) Upon a termination of this Agreement and delivery of the Agreement Cancellation Fee as provided herein, this Agreement shall be null and void and no party hereto shall have any further liability or obligation to another party hereto except as otherwise expressly provided herein. A party electing to terminate this Agreement must do so by written notice to the other party setting forth the reason for such election, and such election shall not be effective until such notice is deemed delivered.

14. Casualty or Condemnation.

If all or any part of the Property are damaged by fire or other casualty prior to the Closing Date, or if there is a taking of all or any part of the Property by eminent domain prior to the Closing Date, then Purchaser shall have the option to terminate this Agreement by written notice to Seller.

15. General Provisions.

- (a) Seller and Purchaser represent and warrant that there have been no real estate brokers or agents involved.
- (b) This Agreement, including all exhibits attached hereto and documents delivered pursuant hereto, shall constitute the entire Agreement and understanding of the parties, and there are no other prior or contemporaneous written or oral agreements, undertakings, promises, warranties, or covenants not contained herein.
- (c) This Agreement, and each of the provisions hereof, may be amended only by a written memorandum executed by both of the parties hereto.
- (d) No waiver of any provision or condition of, or default under, this Agreement by any party shall be valid unless in writing signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act or default.
- (e) Time is of the essence of this Agreement. In the computation of any period of time provided for in this Agreement or by law, any date falling on a Saturday, Sunday or legal holiday shall be deemed to refer to the next day which is not a Saturday, Sunday or legal holiday.
- (f) In the event that any provision of this Agreement shall be unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if said provision had been incorporated herein as so limited or as if said provision has not been included herein, as the case may be.
- (g) Headings of paragraphs are for convenience of reference only and shall not be construed as a part of this Agreement.
- (h) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, provided, however, that this Agreement may be assigned by Purchaser.

- (i) Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally with a receipt requested therefor, by a recognized overnight courier service or by United States registered or certified mail return receipt requested, postage prepaid and addressed to the parties at each of their respective addresses set forth below, and the same shall be effective upon the date of delivery or refusal to accept delivery as shown by written record of service. A party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to Purchaser: City of Mason
202 W. Main Street
Mason, Ohio 45040
ATTN: Scot F. Lahrmer, City Manager

with a copy to: Kenneth J. Schneider
2500 Cincinnati Commerce Center
600 Vine Street
Cincinnati Ohio 45202

If to Seller: Northeast Associates
9501 Union Cemetery Road
Loveland, Ohio 45140
ATTN: Dennis H. Eaton

with a copy to:

- (j) This Agreement shall be governed in all respects by the laws of the State of Ohio.
- (k) This Agreement may be executed in any number of identical counterparts, any or all of which may contain the signatures of less than all of the parties and all of which shall be construed together as a single instrument.
- (l) The parties each agree to do, execute, acknowledge and deliver all such further acts, instruments and assurances and to take all such further action before or after the closing not specifically set forth in this Agreement which shall be necessary or desirable to fully carry out this Agreement and to fully consummate and effect the transactions contemplated hereby; provided, however, that any further act, instrument or assurance does not adversely affect the economic position of, or create any

potential liability on the part of, the party requested to furnish such further act, instrument or assurance.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

PURCHASER:

The City of Mason, Ohio

BY: Scot F. Lahmer
Scot F. Lahmer, City Manager

SELLER:

Northeast Associates, an Ohio General Partnership

BY: _____
ITS: _____

EXHIBIT A
LEGAL DESCRIPTION

09/15/99 WED 11:29 FAX 513 852 6087

WOOD & LAMPING LLP

Sep 14 99 05:08p

King Hasselbring & Assoc 513-932-6847

003

P.3

KING-HASSELBRING & ASSOCIATES

Civil Engineers & Land Surveyors
212 North Broadway Lebanon, Ohio 45036
Telephone (513) 932-3806 Facsimile (513) 932-6847

Principal:
J. Timothy King, PE-PS

Associates:
Paul E. Hasselbring, PE-PS
M. Ernie Blankenship, PE
Robert M. Nevin, SIT

FILE: EATON.LGL
DWG. NO.: C-10452
FILE NO.: 99-9992

SEPTEMBER 9, 1999
PAGE 1 OF 2

LEGAL DESCRIPTION 105.499 ACRES

Situated in Section 20, Town 4, Range 3, part in the City of Mason and part in Union Township, Warren County, Ohio, and being more particularly described as follows:

Beginning at a railroad spike found at the northwest corner of said Section 20, said point being in the centerline of State Route 741 and in the centerline of Bunnell Road (T-69);

Thence in and along said centerline of said State Route 741, S-05d-29'-00"-W a distance of 1718.45 feet to a railroad spike found and real Point-of-Beginning for this description;

Thence leaving said centerline of said State Route 741, S-89d-16'-00"-E a distance of 1382.40 feet to an iron pin found, passing at 40.00 feet an iron pin found in the west line of said City of Mason corporation;

Thence N-05d-31'-02"-E a distance of 318.02 feet to an iron pin found;

Thence S-84d-44'-03"-E a distance of 731.63 feet to an iron pin found;

Thence S-05d-15'-57"-W a distance of 739.68 feet to an iron pin found;

Thence S-84d-44'-03"-E a distance of 752.92 feet to an iron pin found in the east line of said corporation;

Thence in and along said east line of said corporation S-05d-15'-57"-W a distance of 1122.40 feet to a point, passing at 983.20 feet an iron pin found;

Thence leaving said east line of said corporation N-84d-44'-00"-W a distance of 1493.75 feet to a stone found, passing at 140.55 feet an iron pin found;

Thence S-05d-20'-32"-W a distance of 235.71 feet to an iron pin found;

Formerly Hasselbring & Associates
Established 1951

Purchaser will provide Seller evidence of insurance satisfactory to Seller. Until Purchaser pays Seller the balance of the Purchase Price, Purchaser will make no changes to the Property or construct any improvements thereon without first having obtained Seller's written consent to said changes and/or improvements. Seller agrees that it shall not unreasonably withhold, condition or delay granting approval for any changes or improvements on the Property.

4. If, prior to payment to Seller of the balance of the Purchase Price, Purchaser requires the use of any of the Property for sale, lease or any other purpose, Seller agrees to fully cooperate with Purchaser in such endeavor.

5. On or before January 15, 2000, Purchaser shall pay Seller the balance of the Purchase Price adjusted for prorations and expenses to be paid at closing and agreed to by Purchaser and Seller. Immediately following payment of the balance of the Purchase Price to Seller, Seller authorizes Purchaser's counsel to record the Deed.

6. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF the parties have executed this Agreement this 25th day of October, 1999.

THE CITY OF MASON

BY: Pat J. Lee

TITLE: City Manager

NORTHEAST ASSOCIATES, an Ohio General Partnership

BY: _____

TITLE: _____

SL's copy
unsigned

AGREEMENT

This Agreement between the City of Mason (hereinafter "Purchaser"), 202 West Main, Mason, Ohio 45040, and Northeast Associates, an Ohio General Partnership (hereinafter "Seller"), 9501 Union Cemetery Road, Loveland, Ohio 45140.

Purchaser and Seller have entered into a Purchase and Sale Agreement dated October ____, 1999, for the sale and purchase of approximately 105.499 acres located in the City of Mason, Warren County, Ohio. The property is more specifically described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter the "Property").

Purchaser and Seller have agreed to structure the purchase and sale in a way that will mutually benefit both Purchaser and Seller.

THEREFORE, in consideration of the foregoing, Purchaser and Seller agree as follows:

1. Purchaser agrees to pay Seller Seven Hundred Ninety-One Thousand, Two Hundred Forty-Two Dollars and Fifty Cents (\$791,242.50) (hereinafter "Deposit"), which Seller shall treat as a refundable Deposit applicable towards the purchase price due at Closing of One Million, Five Hundred Eight-Two Thousand, Four Hundred Eighty-Five (\$1,582,485.00) Dollars ("Purchase Price"). Seller hereby acknowledges receipt of said Deposit.

2. Upon receipt of the Deposit, Seller shall execute and deliver to Thomas M. Wobkenberg, Purchaser's counsel, a General Warranty Deed for the Property and to the City of Mason, fully executed and in recordable form. Purchaser and Purchaser's counsel agree that said Deed shall be held by Purchaser's counsel and shall not be recorded until Purchaser pays Seller the balance of the Purchase Price as called for herein.

3. Following payment by Purchaser of the Deposit to Seller, Purchaser shall be entitled to full use and occupancy of the Property. Should Purchaser elect to use or occupy the Property,

Purchaser will provide Seller evidence of insurance satisfactory to Seller. Until Purchaser pays Seller the balance of the Purchase Price, Purchaser will make no changes to the Property or construct any improvements thereon without first having obtained Seller's written consent to said changes and/or improvements. Seller agrees that it shall not unreasonably withhold, condition or delay granting approval for any changes or improvements on the Property.

4. If, prior to payment to Seller of the balance of the Purchase Price, Purchaser requires the use of any of the Property for sale, lease or any other purpose, Seller agrees to fully cooperate with Purchaser in such endeavor.

5. On or before January 15, 2000, Purchaser shall pay Seller the balance of the Purchase Price adjusted for prorations and expenses to be paid at closing and agreed to by Purchaser and Seller. Immediately following payment of the balance of the Purchase Price to Seller, Seller authorizes Purchaser's counsel to record the Deed.

6. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF the parties have executed this Agreement this ____ day of October, 1999.

THE CITY OF MASON

BY: _____

TITLE: _____

NORTHEAST ASSOCIATES, an Ohio General Partnership

BY _____

TITLE: _____