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original docs  
Janifer H  
copy for  
Tom  
Sut  
Eng

January 22, 2004

Scot F. Lahrmer  
City Manager  
City of Mason  
6000 Mason-Montgomery Road  
Mason, Ohio 45040

**RE: RE: Berger Property**

Dear Scot:

Enclosed are the following in connection with the City's purchase of the above property:

1. Original recorded General Warranty Deed;
2. Copy of Settlement Statement; and
3. Owner's Policy of Title Insurance.

Please call if you have any questions regarding the enclosed.

Sincerely,



Heather L. Engel  
Legal Assistant

/he

AMERICAN LAND TITLE ASSOCIATION  
OWNER'S POLICY  
(10-17-92)

36 0145 106 00000150

CHICAGO TITLE INSURANCE COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title, as insured, but only to the extent provided in the Conditions and Stipulations.

*In Witness Whereof*, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed as of Date of Policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory.

Issued by:  
MARK S. RECKMAN  
THOMAS M. WOEBKENBERG  
2500 CINCINNATI COMMERCE CENTER  
600 VINE STREET  
CINCINNATI, OH 45202-2409  
(513) 852-6000

CHICAGO TITLE INSURANCE COMPANY

By:

  
President



By:

  
Secretary

## **EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the Insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

Chicago Title Insurance Company

OWNER'S POLICY

SCHEDULE A

<b>Case Number:</b> 3723	<b>Date of Policy:</b> October 15, 2003 at 2:18:44 PM	<b>Amount of Insurance:</b> \$235,000.00	<b>Policy Number:</b> 36 0145 106 00000150
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THE POLICY NUMBER SHOWN ON THIS SCHEDULE MUST AGREE WITH THE PREPRINTED NUMBER ON THE COVER SHEET.

1. Name of Insured:

CITY OF MASON, OHIO, an Ohio municipal corporation

2. The estate or interest in the land which is covered by this policy is:

Fee Simple

3. Title to the estate or interest in the land is vested in:

CITY OF MASON, OHIO, an Ohio municipal corporation

4. The land referred to in this policy is described as follows:

Trace 1 – 5.105 Acres

Situate in the City of Mason, Warren County, Ohio, being part of Section 30, Town 4, Range 2, and being more particularly described as follows:

Beginning at an existing one inch iron pin at the southwest corner of Mason Hills (Lot #43) recorded in Plat Book 7, Page 30, Warren County Recorder's Office; thence with the northerly and westerly boundaries of Block "B" Timberbrook Estates recorded in Plat Book 19, Page 13, Warren County Recorder's Office the following four (4) courses, North 87° 08' 25" West, 99.27 feet, South 46° 54' 35" West, 121.24 feet, South 22° 22' 50" West, 183.85 feet and South 20° 25' 20" East, 175.58 feet to an existing stone; thence South 89° 12' 25" West, 260.85 feet to an existing iron pin; thence North 36° 55' 40" West, 239.73 feet to an existing iron pin; thence North 19° 52' 45" East, 141.40 feet to an existing iron pin; thence North 46° 33' 35" East, 117.49 feet to an existing iron pin; thence North 68° 35' 40" West, 130.53 feet to a point in Main Street (U.S. Route #42); thence North 54° 14' 30" East, 381.23 feet; thence South 37° 20' East, 26.88 feet to a point in the southeasterly right of way of

By: Thomas M. Wodsenberg  
Authorized Officer or Agent

ALTA Owner's Policy

This Policy is invalid unless the cover sheet and Schedule B are attached.

Schedule A consists of 2 page(s)

**Chicago Title Insurance Company**

**OWNER'S POLICY**

**SCHEDULE A**

said Main Street; thence with said right of way with the arc of a curve with a radius of 1949.36 feet, clockwise 48.71 feet (chord of said arc bears South 52° 01' 54" West, 48.71 feet); thence with the south line of Hanover Drive the following three (3) courses, with the arc of a curve with a radius of 25 feet, clockwise, 36.78 feet (Chord of said arc bears South 85° 05' 25" East, 33.55), with the arc of a curve with a radius of 236.36 feet, counterclockwise, 182.34 feet (chord of said arc bears South 65° 02' 20" East, 177.85 feet) and South 87° 08' 25" East, 113.86 feet to the northwest corner of said Lot #43; thence South 2° 51' 35" West, 125.00 feet with the west line of said Lot #43, to the place of beginning. Containing 5.105 acres more or less. Subject to the legal right of way of said Main Street and any previous easements or restrictions of record.

The above description is the result of a survey prepared by Lawrence E. Shad Ohio Registration No. 5214 dated July, 1993, the survey plat of which is filed in Vol. 88, Page No. 37 of the Warren County Engineer's Record of Land Division.

Tract II – 0.71 acre

Situate in the City of Mason, Warren County, Ohio, being part of Section 30, Town 4, Range 2, and being more particularly described as follows:

Beginning at the northwest corner of Mason Hills (Lot #1) recorded in Plat Book 7, Page 30, Warren County Recorder's Office; thence with the west line of said Lot #1 South 2° 51' 35" West, 158.05 feet to a point on the north line of Hanover Drive (the southwest corner of said Lot #1); thence with the said north line of Hanover Drive the following three (3) courses, North 87° 08' 25" West, 78.86 feet with the arc of a curve with a radius of 186.36 feet, clockwise, 135.18 feet, (chord of said arc bears North 66° 21' 30" West, 132.24 feet), and with the arc of a curve with a radius of 25.00 feet, clockwise, 41.64 feet (chord of said arc bears North 2° 08' East, 36.99 feet to a point in the southeasterly right of way of Main Street; thence with said right of way with the arc of a curve with a radius of 1949.86 feet, clockwise, 50.47 feet (chord of said arc bears South 50° 35' 48" West, 50.47 feet); thence North 37° 20' West, 26.88 feet to a point in Main Street (U.S. Rt. 42); thence North 54° 14' 30" East, 144.29 feet; thence South 86° 09' 20" East, 144.94 feet to the place of beginning. Containing 0.71 gross acres more or less, subject to the legal right of way of said Main Street and any previous easements or restrictions of record.

The above description is the result of a survey prepared by Lawrence E. Shad Ohio Registration No. 5214 dated July, 1993, the survey plat of which is filed in Vol. 88, Plat No. 37 of the Warren County Engineer's Record of Land Division.

This Policy is invalid unless the cover sheet and Schedule B are attached.

Schedule A consists of 2 page(s)

**Chicago Title Insurance Company**

**OWNER'S POLICY**

**SCHEDULE B**

**Exceptions from Coverage**

**Case Number:**  
3723

**Date of Policy:**  
October 15, 2003 at  
2:18:44 PM

**Policy Number:**  
36 0145 106  
00000150

THE POLICY NUMBER SHOWN ON THIS SCHEDULE MUST AGREE WITH THE PREPRINTED NUMBER ON THE COVER SHEET.

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
2. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public record.
3. Any encroachments, easements, discrepancies, conflicts in boundary lines, variations or shortages in area or content or any other facts which an accurate survey would disclose.
4. Rights or claims of parties in possession of all or part of the premises.
5. Roads, streams, ways or easements, if any, not shown of the public record, riparian rights and title to any filled-in lands.
6. Assessments which are a lien or may become a lien but not yet certified to the County Auditor.

**General Exception Nos. 1, 2, 4 and 6 are hereby deleted.**

7. Assessments, if any, which are not yet due and payable, and any future assessments not certified to the County Auditor.
8. The lien of all taxes for the first half of the year 2003, which are not yet due and payable, and subsequent installments; additions or abatements, if any, which may hereafter be made by legally constituted authorities on account of errors, omissions or changes in valuation.
9. Subject to the rights of the public in U.S. Route 42.

ALTA Owner's Policy Form B 1987 (Amended)

This Policy is invalid unless the cover sheet and Schedule B are attached.

Schedule B consists of 2 page(s)

**Chicago Title Insurance Company**

**OWNER'S POLICY**

**SCHEDULE B**

**Exceptions from Coverage**

10. Utility easements in favor of Cincinnati Gas & Electric Company as set forth at Deed Book 433, Page 421 of the Warren County, Ohio records.
11. Easement in favor of the City of Mason for road and utility purposes from the center of the road out fifty feet, as set forth at O.R. 942, Page 804 and O.R. 942, Page 807 of the Warren County, Ohio records.
12. Notwithstanding the reference to acreage or square footage in the description set forth in Schedule "A" hereof, this policy does not insure or guarantee the acreage or quantity of land set forth therein.

ALTA Owner's Policy Form B 1987 (Amended)

This Policy is invalid unless the cover sheet and Schedule B are attached.

Schedule B consists of 2 page(s)

# CONDITIONS AND STIPULATIONS

## 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A, and, subject to any rights or defenses the Company would have had against the named insured, those who succeed to the interest of the named insured by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin, or corporate or fiduciary successors.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Section 1(a)(iv) of the Exclusions From Coverage, "public records" shall also include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

## 2. CONTINUATION OF INSURANCE AFTER CONVEYANCE OF TITLE

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

## 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

## 4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

## 5. PROOF OF LOSS OR DAMAGE

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such proof of loss or damage.

In addition, the insured claimant may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph shall terminate any liability of the Company under this policy as to that claim.

## 6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

### (a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations to the insured under this policy, other than to make the payment required, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

### (b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.



Upon the exercise by the Company of either of the options provided for in paragraphs (b)(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

#### 7. DETERMINATION, EXTENT OF LIABILITY AND COINSURANCE

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A; or,  
(ii) the difference between the value of the insured estate or interest as insured and the value of the insured estate or interest subject to the defect, lien or encumbrance insured against by this policy.

(b) In the event the Amount of Insurance stated in Schedule A at the Date of Policy is less than 80 percent of the value of the insured estate or interest or the full consideration paid for the land, whichever is less, or if subsequent to the Date of Policy an improvement is erected on the land which increases the value of the insured estate or interest by at least 20 percent over the Amount of Insurance stated in Schedule A, then this Policy is subject to the following:

(i) where no subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that the amount of insurance at Date of Policy bears to the total value of the insured estate or interest at Date of Policy; or

(ii) where a subsequent improvement has been made, as to any partial loss, the Company shall only pay the loss pro rata in the proportion that 120 percent of the Amount of Insurance stated in Schedule A bears to the sum of the Amount of Insurance stated in Schedule A and the amount expended for the improvement.

The provisions of this paragraph shall not apply to costs, attorneys' fees and expenses for which the Company is liable under this policy, and shall only apply to that portion of any loss which exceeds, in the aggregate, 10 percent of the Amount of Insurance stated in Schedule A.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

#### 8. APPORTIONMENT

If the land described in Schedule A consists of two or more parcels which are not used as a single site, and a loss is established affecting one or more of the parcels but not all, the loss shall be computed and settled on a pro rata basis as if the amount of insurance under this policy was divided pro rata as to the value on Date of Policy of each separate parcel to the whole, exclusive of any improvements made subsequent to Date of Policy, unless a liability or value has otherwise been agreed upon as to each parcel by the Company and the insured at the time of the issuance of this policy and shown by an express statement or by an endorsement attached to this policy.

#### 9. LIMITATION OF LIABILITY

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

#### 10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto.

#### 11. LIABILITY NONCUMULATIVE

It is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy to the insured owner.

#### 12. PAYMENT OF LOSS

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

#### 13. SUBROGATION UPON PAYMENT OR SETTLEMENT

##### (a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The insured claimant shall permit the Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to these rights and remedies in the proportion which the Company's payment bears to the whole amount of the loss.

If loss should result from any act of the insured claimant, as stated above, that act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

##### (b) The Company's Rights Against Non-insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

#### 14. ARBITRATION

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is \$1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

#### 15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

#### 16. SEVERABILITY

In the event any provision of the policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

#### 17. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this policy and shall be addressed to the Company at the issuing office or to:

Chicago Title Insurance Company  
Claims Department  
171 North Clark Street  
Chicago, Illinois 60601-3294

Sidwell Nos. 16 30 127 018 & 16 30 226 038

2  
28 wood

GENERAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That **BORIS BERGER, TRUSTEE UNDER THE BORIS BERGER TRUST DATED JUNE 28, 1992**, whose address is 9467 Montgomery Road, Cincinnati, Ohio 45242, hereafter known as the Grantor, for valuable consideration paid, grants with general warranty covenants to **CITY OF MASON, OHIO, an Ohio municipal corporation**, its successors and assigns forever, whose tax mailing address is 6000 Mason-Montgomery Road, Mason, Ohio 45040, known collectively as the Grantee, the following described real estate:

Tract I - 5.105 Acres

16-30-127-018 DWB

Situate in the City of Mason, Warren County, Ohio, being part of Section 30, Town 4, Range 2, and being more particularly described as follows:

Beginning at an existing one inch iron pin at the southwest corner of Mason Hills (Lot #43) recorded in Plat Book 7, Page 30, Warren County Recorder's Office; thence with the northerly and westerly boundaries of Block "B" Timberbrook Estates recorded in Plat Book 19, Page 13, Warren County Recorder's Office the following four (4) courses, North 87° 08' 25" West, 99.27 feet, South 46° 54' 35" West, 121.24 feet, South 22° 22' 50" West, 183.85 feet and South 20° 25' 20" East, 175.58 feet to an existing stone; thence South 89° 12' 25" West, 260.85 feet to an existing iron pin; thence North 36° 55' 40" West, 239.73 feet to an existing iron pin; thence North 19° 52' 45" East, 141.40 feet to an existing iron pin; thence North 46° 33' 35" East, 117.49 feet to an existing iron pin; thence North 68° 35' 40" West, 130.53 feet to a point in Main Street (U.S. Route #42); thence North 54° 14' 30" East, 381.23 feet; thence South 37° 20' East, 26.88 feet to a point in the southeasterly right of way of said Main Street; thence with said right of way with the arc of a curve with a radius of 1949.36 feet, clockwise 48.71 feet (chord of said arc bears South 52° 01' 54" West, 48.71 feet); thence with the south line of Hanover Drive the following three (3) courses, with the arc of a curve with a radius of 25 feet, clockwise, 36.78 feet (Chord of said arc bears South 85° 05' 25" East, 33.55), with the arc of a curve with a radius of 236.36 feet, counterclockwise, 182.34 feet (chord of said arc bears South 65° 02' 20" East, 177.85 feet) and South 87° 08' 25" East, 113.86 feet to the northwest corner of said Lot #43; thence South 2° 51' 35" West, 125.00 feet with the west line of said Lot #43, to the place of beginning. Containing 5.105 acres more or less. Subject to the legal right of way of said Main Street and any previous easements or restrictions of record.

The above description is the result of a survey prepared by Lawrence E. Shad Ohio Registration No. 5214 dated July, 1993, the survey plat of which is filed in Vol. 88, Page No. 37 of the Warren County Engineer's Record of Land Division.

Tract II - 0.71 acre

16-30-226-038 DWB

Situate in the City of Mason, Warren County, Ohio, being part of Section 30, Town 4, Range 2, and being more particularly described as follows:

Beginning at the northwest corner of Mason Hills (Lot #1) recorded in Plat Book 7, Page 30, Warren County Recorder's Office; thence with the west line of said Lot #1 South 2° 51' 35" West, 158.05 feet to a point on the north line of Hanover Drive (the southwest corner of said Lot #1);

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thence with the said north line of Hanover Drive the following three (3) courses, North 87° 08' 25" West, 78.86 feet with the arc of a curve with a radius of 186.36 feet, clockwise, 135.18 feet, (chord of said arc bears North 66° 21' 30" West, 132.24 feet), and with the arc of a curve with a radius of 25.00 feet, clockwise, 41.64 feet (chord of said arc bears North 2° 08' East, 36.99 feet to a point in the southeasterly right of way of Main Street; thence with said right of way with the arc of a curve with a radius of 1949.86 feet, clockwise, 50.47 feet (chord of said arc bears South 50° 35' 48" West, 50.47 feet); thence North 37° 20' West, 26.88 feet to a point in Main Street (U.S. Rt. 42); thence North 54° 14' 30" East, 144.29 feet; thence South 86° 09' 20" East, 144.94 feet to the place of beginning. Containing 0.71 gross acres more or less, subject to the legal right of way of said Main Street and any previous easements or restrictions of record.

The above description is the result of a survey prepared by Lawrence E. Shad Ohio Registration No. 5214 dated July, 1993, the survey plat of which is filed in Vol. 88, Plat No. 37 of the Warren County Engineer's Record of Land Division.

The property is conveyed subject to and there are hereby excepted from the general warranty covenants all easements and restrictions of record, established easements, zoning ordinances and real estate taxes and assessments, which are due, but not yet payable.

Being the same property conveyed to the Grantor herein by instruments recorded in Official Record 2517, Pages 967 and 969 of the Warren County, Ohio, Records.

Executed by the said BORIS BERGER, TRUSTEE UNDER THE BORIS BERGER TRUST DATED JUNE 28, 1992 this 10th day of October, 2003.

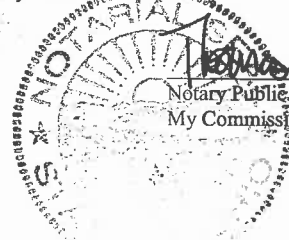
*Boris Berger* TRUSTEE UA/TRUST  
 BORIS BERGER, TRUSTEE UNDER THE BORIS BERGER  
 TRUST DATED JUNE 28, 1992 DATED JUNE 28, 1992

STATE OF OHIO )  
 ) SS:  
 COUNTY OF WARREN )

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BE IT REMEMBERED, that on this 10th day of October, 2003 before me, the subscriber, a Notary Public in and for said County and State, personally came BORIS BERGER, TRUSTEE UNDER THE BORIS BERGER TRUST DATED JUNE 28, 1992 and acknowledged the signing of the foregoing instrument, and that the same is his voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year first above written.



*Thomas M. Woebkenberg*  
 Notary Public THOMAS M. WOEBKENBERG, Attorney at Law  
 My Commission Expires NOTARY PUBLIC - STATE OF OHIO  
 My commission has no expiration date, Section 147.03 O.R.C.

This Instrument Prepared By:  
 THOMAS M. WOEBKENBERG  
 WOOD & LAMPING  
 600 Vine Street, Suite 2500  
 Cincinnati, Ohio 45202  
 513/852-6044

*1-2-03*  
**TRANSFERRED**  
*Oct 15 2003*  
 SEC. 319.202 COMPLIED WITH  
 NICK NELSON, Auditor  
 WARREN COUNTY, OHIO

BETH DECKARD - WARREN COUNTY RECORDER  
 Doc #: 435929 Type: DEED  
 Filed: 10/15/2003 14:18:44 \$ 28.00  
 OR Volume: 3316 Page: 264 Return: M  
 Rec#: 28844 Pages: 2  
 WOOD & LAMPING