

ORDINANCE NO. 2005-108

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
INCENTIVE GRANT AGREEMENT WITH HEALTH ALLIANCE OF
GREATER CINCINNATI IN AN AMOUNT
NOT TO EXCEED \$500,000**

WHEREAS, the Health Alliance intends to construct the Craig and Frances Lindner Center of HOPE, state-of-the-art Behavioral Sciences Facility Medical Campus Development (hereinafter referred to as “Medical Development” or “Phase I”) and facilitate the construction of the Office Park Campus Development (hereinafter referred to as “Office Park Development” or “Phase II”) in the City of Mason and in connection therewith shall make good faith efforts to create jobs at the Projects; and

WHEREAS, the City has an interest in entering into a financial agreement with Health Alliance for the Office Park Campus Development because the City’s Economic Development Strategies include designing mechanisms to attract targeted types of development into the City including class A office parks, corporate headquarters offices, and certain industry sectors with high-tech and research and development functions; and

WHEREAS, the City proposes to expend an amount not to exceed \$500,000 of City funds to make public improvements relating to the construction of the Office Park Campus Development or Phase II; and

WHEREAS, in connection with the above consideration on the part of Health Alliance and the City of Mason, the parties wish to enter into an Incentive Grant Agreement, which will set forth the responsibilities and agreements of Health Alliance and the City of Mason.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, six members thereto concurring:


Section 1. That the City Manager is hereby authorized to enter into an Incentive Grant Agreement with Health Alliance regarding the construction of a Behavioral Sciences Facility Medical Campus Development and facilitate the construction of the Office Park Campus Development located in Mason, Ohio.

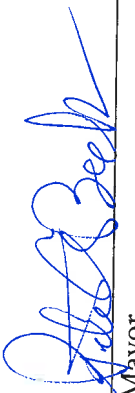
Section 2. That the Incentive Grant Agreement shall be in substantial conformity with the Agreement, attached hereto as Exhibit “A” and made part hereof.

Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed this 14th day of November, 2005.

Attest:


Clerk of Council


Mayor

CERTIFICATE

The undersigned, Clerk of Council of the City of Mason, hereby certifies this to be a true and exact copy of Ordinance No. 2005-____, adopted by the Council of the City of Mason on November ____, 2005.

Clerk of Council

“Exhibit A”

**INCENTIVE GRANT AGREEMENT BETWEEN THE HEALTH ALLIANCE OF
GREATER CINCINNATI AND THE CITY OF MASON**

This Incentive Grant Agreement (hereinafter referred to as the “Agreement”) is entered into this _____ day of _____, 2005, by and between the City of Mason, Ohio, an Ohio municipal corporation (hereinafter referred to as the “City”), and The Health Alliance of Greater Cincinnati, an Ohio non-profit corporation (hereinafter referred to as the “Health Alliance”), located at 3200 Burnet Avenue, Cincinnati, Ohio 45229.

WHEREAS, the City is supportive of the Health Alliance purchase of the approximately 102-acre property, at or near 4089 - 4099 Old Western Row Road, Mason, Ohio known as the Gregory Property (hereinafter referred to as “the Property”) to be developed on a basis consistent with the City’s Comprehensive Plan and in harmony with the requirements of the HT-1 Planned Unit Development (“HT-1 PUD”) zoning designation; and

WHEREAS, Health Alliance intends to construct a new healthcare hospital campus and medical R&D facility in Mason, Ohio on a portion of the Property constituting approximately 40-acres (collectively referred to as the “Project”), and in connection therewith shall make good faith efforts to create jobs at the Project; and

WHEREAS, the City desires to attract the Health Alliance state-of-the-art Behavioral Sciences Facility Medical Campus Development (hereinafter referred to as “Medical Development” or “Phase I”) and Office Park Campus Development (hereinafter referred to as “Office Park Development” or “Phase II”) in the City on the Property; and

WHEREAS, this Agreement is not intended to limit the uses allowable under the proposed HT-1 PUD, but rather to outline the development types that will drive the highest financial participation from the City for infrastructure development through this Agreement, and through other programs such as Community Reinvestment Area tax abatement, and Tax Increment Financing tools; and

WHEREAS, the City and Health Alliance are committed to pursue the development of the remainder of the Property for uses which may include, but shall not be limited to corporate office, high tech, targeted light manufacturing and hotel purposes, with both the City and Health Alliance being willing and able to use tools that each have at their disposal with respect to marketing, property asking price per acre consistent with the local market and use of competitive economic incentive packages for the potential purchaser or developer; and

WHEREAS, in order to accomplish the Medical Development and Office Park Development on the Property, rezoning is being requested to HT-1 PUD, and the City commits to encourage this type of development as it is consistent with the City’s Comprehensive Plan and economic development strategies to attract future investment and job creation; and

WHEREAS, the rezoning of the Property to HT-1 PUD, along with a commitment from the Health Alliance to use its best efforts to pursue or facilitate Office Park Development, is a sizable advantage to the City. Purchase of the Property by Health Alliance secures the Property for development that will deliver a high rate of return on investment for the City with higher employment numbers and higher average salaries; and

WHEREAS, pursuant to its authority under Ohio Constitution, Article VIII, Section 13, the City proposes to expend an amount of five hundred thousand dollars (\$500,000) of City funds as an incentive for Health Alliance (or such entity or entities to which the Office Park Development or Phase II is assigned, hereinafter referred to as "Assignee") to develop and make necessary public infrastructure improvements relating to the construction of the Office Park Development; and

WHEREAS, the City, by making a financial commitment and providing strong local-government support, will ensure that the State of Ohio criteria for consideration for state based incentives are met for this development. The City will exercise commercially reasonable, good faith efforts to leverage and secure additional infrastructure contribution from the Ohio Department of Development to assist with public infrastructure related to the development of the Medical Development and Office Park Development; and

WHEREAS, the Council of the City of Mason believes that providing financial assistance to Health Alliance or the Assignee and utilizing certain real property for public improvements in connection with Health Alliance's planned Medical Development and Office Park Development will benefit the people of the City of Mason by increasing opportunities for employment and strengthening the economic welfare of the City.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto mutually agree that:

1. The intended primary purposes of this Agreement are to attract the Office Park Development by making available a competitive incentive grant package offered by the City to further attract targeted types of development such as corporate office and high tech development. These uses are considered mutually by Health Alliance and the City to be the highest and best uses for the Property in light of compatibility with the Medical Development and maximization of the rate of return to the City as result of investment and job creation.
2. It is the reasonable belief of Health Alliance and the City that the Medical Development on the Property will initially create approximately seventy-five (75) new jobs (the majority of which would be constituted by medical doctors, researchers, and medical support staff) and create new investment in the range of over \$20 million.
3. The Health Alliance has identified that they have an interest in pursuing or facilitating the development of the approximately 60 acres in the front of the Property for uses which may include multi-story, class "A" corporate office-type development, as outlined in their proposed HT-1 PUD Concept Plan, attached as Exhibit A.
4. The City has agreed to provide a financial incentive of \$500,000.00 from its general revenue fund to help attract companies to the Office Park Development or Phase II. The City shall commit the funds to the public infrastructure improvements necessitated by the Office Park Development, once the City confirms it fits the criteria of targeted office type development and at least one corporation or a combination of corporations meets a threshold of job creation payroll of at least Ten Million Dollars (\$10,000,000.00) annually commits to locate at the Office Park Development. Should the initial corporation or corporations committing to locate at the Office Park Development yield job creation payroll of less than the Ten Million Dollar threshold above mentioned, Health Alliance or the Assignee could be eligible for a pro rata disbursement from the City for an appropriate portion of the \$500,000.00 financial incentive if the said prospect fits other Economic Development Strategy criteria for type of company. Upon completion of the public infrastructure improvements incident to the Office Park Development, Health Alliance or its Assignee shall make application for the \$500,000.00 financial incentive (or remaining balance available after any pro rata disbursements) from the City. The City shall disburse all or a portion of the financial incentive within 45 days after receipt of the proper documentation from Health Alliance or the Assignee, which disbursement shall be subject to a retainage of 5%. The remaining 5% shall become due after final acceptance of all public infrastructure improvements by the Mason Engineering Department.
3. For work relating to the public infrastructure improvements necessitated by the Office Park Development or Phase II, Health Alliance or the Assignee agrees to comply with prevailing wage requirements, and shall provide: public liability and property damage insurance, performance and maintenance guarantee bonds as required, and workers

compensation insurance. An affidavit of compliance with all such requirements shall be submitted on request from the City.

4. Health Alliance agrees to dedicate to the City any right-of-way on the Property for the proposed public infrastructure improvements, provided Health Alliance and City mutually agree on the need for, dimensions of, and location of any such right-of-way.
5. The City and Health Alliance have a mutual interest in seeing the proposed Phase II public infrastructure improvements extend from Western Row Road to Innovation Way.
6. The Health Alliance has expressed that the improvement to the Western Row Interchange on I-71 being developed into a full interchange with north and southbound access is highly important to the success of the Medical Development and the promotion, marketability and success of the Office Park Development. The City will continue to exercise all commercially reasonable efforts to have the Ohio Department of Transportation or other affected governmental entities construct the full north- and southbound interchange at I-71 and Western Row.
7. Health Alliance recognizes the importance of infrastructure investment to and around the Property to make the site desirable for planned development. The City has a keen interest in this Medical Development and Office Park Development and, as previously agreed with prior developers of nearby and adjacent property, the City has completed design and anticipates completion the \$3.9 million widening, beautification and improvement to Western Row Road from the east intersection of Tylersville west to Mason-Montgomery Road in 2007.
8. Health Alliance or Assignee shall make good faith efforts to market and encourage the construction of the Office Park Development or Phase II. Health Alliance or Assignee will target marketing efforts, at least in part, toward companies which are most likely to yield the new job creation payroll threshold set forth in paragraph 2.
9. It is anticipated that the development of the Property according to Exhibit A could accommodate up to one million square feet of office, or other approved HT-1 PUD uses, and according to metrics provided by the City, create up to 4,000 new jobs, and up to \$1.6 million in new annual earnings tax revenue associated with those jobs in the future if developed as office. The City shall commit to aggressively use its economic development capacity to develop and implement competitive incentive packages to aid with the recruitment of said companies with economic tools including, but not limited to: Community Reinvestment Area Program, Enterprise Zone, Tax Increment Financing, and State Ohio Department of Development Programs for which development of this nature is made eligible only by first granting local incentives. Notwithstanding, nothing in this Agreement shall preclude any prospective purchaser or developer of any or all of the Property proposed for Phase II development from seeking additional financial incentives from the City or any other local, state or federal governmental entity having authority to grant such incentives.
10. Upon request of the City, Health Alliance or Assignee shall provide the City summaries of any third-party audit reports, if such reports have been prepared, and are readily available at no cost to Health Alliance or Assignee, to ensure compliance with the foregoing Sections 2 and 4 of this Agreement.
11. Health Alliance or Assignee shall submit to the City, at the City's request (but not more frequently than quarterly), summary reports prepared by staff of Health Alliance or Assignee relating to the progress of the Phase II portion of the Project, which shall include both the Office Park Development and the public infrastructure improvements. Subject to force majeure conditions beyond its control, Health Alliance or Assignee shall use reasonable commercial efforts to cause the Office Park Development to be completed in a time and manner, which adequately addresses market demand for such development. The party benefiting from the financial inventive grant shall provide a final narrative report submitted to the City prior to the request for final disbursement of funds. This

Agreement shall automatically terminate upon completion of the Phase II portion of the Project by Health Alliance or Assignee and the City's fulfillment of its obligations under Section 2 above.

12. In the event that the Medical Development is not completed, staffed and providing service to the community by December 31, 2008, (or by such later date as appropriate, where written notification is given to the City thirty (30) days in advance of that date, and where an extension is necessitated by circumstances beyond the control of Health Alliance); the Medical Development is abandoned prior to such date; or in the event that Health Alliance or Assignee does not develop the front acreage as an Office Park Development, the City shall have no obligation to make the incentive grant offering contemplated in Section 4 of this Agreement to Health Alliance or to any other person or entity.

13. It is the policy of Health Alliance not to discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, handicap, or age. This non-discrimination policy will be applied to ongoing employment opportunities at the Medical Development and for employment relating to construction of Medical Development and infrastructure development over which Health Alliance has direct control.

14. Health Alliance hereby agrees that the City is not responsible for, and that Health Alliance will defend and hold the City, its officials, agents, employees, and successors harmless from liability resulting from the willful misconduct or negligence of Health Alliance or its employees or contractors in the construction or use of the Project (except to the extent that such liability results from the willful misconduct or negligence of the City, its officials, agents, employees, or successors).

15. Furthermore, the City hereby agrees that Health Alliance is not responsible for, and that the City will defend and hold Health Alliance, its officials, agents, employees, and successors harmless from liability resulting from the willful misconduct or negligence of the City or its employees in the construction of the Project (except to the extent that such liability results from the willful misconduct or negligence of Health Alliance, its officials, agents, employees, or successors).

16. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either Health Alliance or the City without the prior express written consent of the other party, which consent shall not unreasonably be withheld. Notwithstanding, it is the intent of Health Alliance to assign the rights to develop the Office Park Development or Phase II portion of the development to one or more parties. This assignment may be made at the sole discretion of Health Alliance, will not require the written consent of the City, and will relieve Health Alliance from any and all further obligations relating to the Property transferred under this Agreement.

16. Any reporting or communication under this Agreement by either party to the other shall be given or delivered by registered or certified mail, postage pre-paid, return receipt requested, or delivered personally, to:

a. In the case of the City, to:
Scot F. Lahrmer
City Manager
City of Mason
6000 Mason-Montgomery Road
Mason, OH 45040

b. In the case of Health Alliance:
Allen Miller
Vice President, Planning and Outreach The
Health Alliance of Greater Cincinnati
3200 Burnet Avenue
Cincinnati, OH 45229

17. The City may immediately terminate or suspend this Agreement if Health Alliance is in violation of any specific provision of this Agreement, which failure continues for a period of thirty (30) days after written notice thereof from the City, unless such violation cannot reasonably be cured within thirty (30) days and Health Alliance is diligently proceeding to cure. Health Alliance may immediately terminate or suspend this Agreement if the City is in violation of any specific provision of this Agreement, which failure continues for a period of thirty (30) days after written notice thereof from Health Alliance, unless such violation cannot reasonably be cured within thirty (30) days and City is diligently proceeding to cure.
18. The City's obligations under this agreement are contingent upon the Health Alliance of Greater Cincinnati receiving approval of their HT-1 PUD concept plan.
19. This agreement shall be construed, interpreted, and the rights of the parties determined in accordance with the laws of the State of Ohio.
20. A determination that any part of this Agreement is invalid shall not invalidate or impair the force of effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation on the part so declared invalid.
21. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto and with respect to the subject matter hereof, and may not be modified except by an agreement in writing signed by each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by officials thereunto duly authorized as of the date and year first written above.

CITY OF MASON, OHIO

By: _____
Scot F. Lahrmer
City Manager

**THE HEALTH ALLIANCE OF
GREATER CINCINNATI**

By: _____
Its: _____

Approved as to Form:

Kenneth J. Schneider, Law Director

249162.1

EXHIBIT "A"

**THE HEALTH ALLIANCE OF GREATER CINCINNATI
MEDICAL DEVELOPMENT AND OFFICE PARK DEVELOPMENT
PROPOSED PLANNED UNIT DEVELOPMENT CONCEPT PLAN**

Mason, Ohio

ORDINANCE NO. 2005-108

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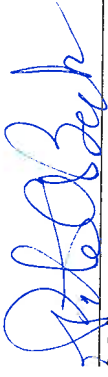
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Passed this 14th day of November, 2005.



Mayor

Attest:

Clerk of Council

CERTIFICATE

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WHEREAS, the rezoning of the Property to HT-1 PUD, along with a commitment from the Health Alliance to use its best efforts to pursue or facilitate Office Park Development, is a sizable advantage to the City. Purchase of the Property by Health Alliance secures the Property for development that will deliver a high rate of return on investment for the City with higher employment numbers and higher average salaries; and

WHEREAS, pursuant to its authority under Ohio Constitution, Article VIII, Section 13, the City proposes to expend an amount of five hundred thousand dollars (\$500,000) of City funds as an incentive for Health Alliance (or such entity or entities to which the Office Park Development or Phase II is assigned, hereinafter referred to as “Assignee”) to develop and make necessary public infrastructure improvements relating to the construction of the Office Park Development; and

WHEREAS, the City, by making a financial commitment and providing strong local-government support, will ensure that the State of Ohio criteria for consideration for state based incentives are met for this development. The City will exercise commercially reasonable, good faith efforts to leverage and secure additional infrastructure contribution from the Ohio Department of Development to assist with public infrastructure related to the development of the Medical Development and Office Park Development; and

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NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto mutually agree that:

1. The intended primary purposes of this Agreement are to attract the Office Park Development by making available a competitive incentive grant package offered by the City to further attract targeted types of development such as corporate office and high tech development. These uses are considered mutually by Health Alliance and the City to be the highest and best uses for the Property in light of compatibility with the Medical Development and maximization of the rate of return to the City as result of investment and job creation.
2. It is the reasonable belief of Health Alliance and the City that the Medical Development on the Property will initially create approximately seventy-five (75) new jobs (the majority of which would be constituted by medical doctors, researchers, and medical support staff) and create new investment in the range of over \$20 million.
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compensation insurance. An affidavit of compliance with all such requirements shall be submitted on request from the City.

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9. It is anticipated that the development of the Property according to Exhibit A could accommodate up to one million square feet of office, or other approved HT-1 PUD uses, and according to metrics provided by the City, create up to 4,000 new jobs, and up to \$1.6 million in new annual earnings tax revenue associated with those jobs in the future if developed as office. The City shall commit to aggressively use its economic development capacity to develop and implement competitive incentive packages to aid with the recruitment of said companies with economic tools including, but not limited to: Community Reinvestment Area Program, Enterprise Zone, Tax Increment Financing, and State Ohio Department of Development Programs for which development of this nature is made eligible only by first granting local incentives. Notwithstanding, nothing in this Agreement shall preclude any prospective purchaser or developer of any or all of the Property proposed for Phase II development from seeking additional financial incentives from the City or any other local, state or federal governmental entity having authority to grant such incentives.
10. Upon request of the City, Health Alliance or Assignee shall provide the City summaries of any third-party audit reports, if such reports have been prepared, and are readily available at no cost to Health Alliance or Assignee, to ensure compliance with the foregoing Sections 2 and 4 of this Agreement.
11. Health Alliance or Assignee shall submit to the City, at the City's request (but not more frequently than quarterly), summary reports prepared by staff of Health Alliance or Assignee relating to the progress of the Phase II portion of the Project, which shall include both the Office Park Development and the public infrastructure improvements. Subject to force majeure conditions beyond its control, Health Alliance or Assignee shall use reasonable commercial efforts to cause the Office Park Development to be completed in a time and manner, which adequately addresses market demand for such development. The party benefiting from the financial inventive grant shall provide a final narrative report submitted to the City prior to the request for final disbursement of funds. This

Agreement shall automatically terminate upon completion of the Phase II portion of the Project by Health Alliance or Assignee and the City's fulfillment of its obligations under Section 2 above.

12. In the event that the Medical Development is not completed, staffed and providing service to the community by December 31, 2008, (or by such later date as appropriate, where written notification is given to the City thirty (30) days in advance of that date, and where an extension is necessitated by circumstances beyond the control of Health Alliance); the Medical Development is abandoned prior to such date; or in the event that Health Alliance or Assignee does not develop the front acreage as an Office Park Development, the City shall have no obligation to make the incentive grant offering contemplated in Section 4 of this Agreement to Health Alliance or to any other person or entity.
 13. It is the policy of Health Alliance not to discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, handicap, or age. This non-discrimination policy will be applied to ongoing employment opportunities at the Medical Development and for employment relating to construction of Medical Development and infrastructure development over which Health Alliance has direct control.
 14. Health Alliance hereby agrees that the City is not responsible for, and that Health Alliance will defend and hold the City, its officials, agents, employees, and successors harmless from liability resulting from the willful misconduct or negligence of Health Alliance or its employees or contractors in the construction or use of the Project (except to the extent that such liability results from the willful misconduct or negligence of the City, its officials, agents, employees, or successors).
 15. Furthermore, the City hereby agrees that Health Alliance is not responsible for, and that the City will defend and hold Health Alliance, its officials, agents, employees, and successors harmless from liability resulting from the willful misconduct or negligence of the City or its employees in the construction of the Project (except to the extent that such liability results from the willful misconduct or negligence of Health Alliance, its officials, agents, employees, or successors).
 16. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either Health Alliance or the City without the prior express written consent of the other party, which consent shall not unreasonably be withheld. Notwithstanding, it is the intent of Health Alliance to assign the rights to develop the Office Park Development or Phase II portion of the development to one or more parties. This assignment may be made at the sole discretion of Health Alliance, will not require the written consent of the City, and will relieve Health Alliance from any and all further obligations relating to the Property transferred under this Agreement.
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Scot F. Lahrmer
City Manager
City of Mason
6000 Mason-Montgomery Road
Mason, OH 45040

b. In the case of Health Alliance:

Allen Miller
Vice President, Planning and Outreach The
Health Alliance of Greater Cincinnati
3200 Burnet Avenue
Cincinnati, OH 45229

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18. The City's obligations under this agreement are contingent upon the Health Alliance of Greater Cincinnati receiving approval of their HT-1 PUD concept plan.
19. This agreement shall be construed, interpreted, and the rights of the parties determined in accordance with the laws of the State of Ohio.
20. A determination that any part of this Agreement is invalid shall not invalidate or impair the force of effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation on the part so declared invalid.
21. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto and with respect to the subject matter hereof, and may not be modified except by an agreement in writing signed by each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by officials thereunto duly authorized as of the date and year first written above.

CITY OF MASON, OHIO

By: _____
Scot F. Lahrmer
City Manager

**THE HEALTH ALLIANCE OF
GREATER CINCINNATI**

By: _____
Its: _____

Approved as to Form:

Kenneth J. Schneider, Law Director

249162.1

EXHIBIT "A"

**THE HEALTH ALLIANCE OF GREATER CINCINNATI
MEDICAL DEVELOPMENT AND OFFICE PARK DEVELOPMENT
PROPOSED PLANNED UNIT DEVELOPMENT CONCEPT PLAN**

Mason, Ohio