



# Great Wolf Resorts<sup>™</sup>

May 18, 2005

Ms. Michele Blair  
Economic Development Director  
City of Mason  
6000 Mason-Montgomery Road  
Mason, OH 45140

Re: Assignment and Assumption Agreement  
Attachment "A" – Incentive Grant Agreement

Dear Michele:

Pursuant to our phone conversation on Tuesday, May 17, 2005, enclosed please find executed copies of the above-referenced Agreements that Michael has signed on behalf of each entity. Please have a representative from your office sign where indicated. When you return to the office next week, please contact Michael to discuss a mutual date to insert in the documents prior to returning our copies.

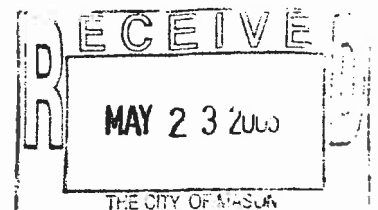
Thank you for your assistance and cooperation.

Sincerely,

Karla J. Braunsky  
Legal Assistant

Enclosures

Par: Jeff Farber -> the corporate attorneys at W+L. It is not at all unusual for the assignor + the assignee to be the same person. If there is any ques - could contact Great Wolf + req. the minutes or official author. docs (ie. board resolution) granting auth. to sign both docs.



## ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS AGREEMENT, made this 14<sup>th</sup> day of December, 2004, by and between The Great Lakes Companies, Inc., a Wisconsin corporation ("Assignor"), and Mason Family Resorts, LLC, a Delaware limited liability company ("Assignee").

### BACKGROUND

Assignor entered into an Incentive Grant Agreement (the "Incentive Grant Agreement"), dated December 14<sup>th</sup>, 2004, with the City of Mason, Ohio, related to the proposed development of a Great Wolf Lodge resort and conference center in Mason, Ohio. Assignee, of which Assignor is one of the beneficial owners, is developing the resort and conference center.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. Assignment. Subject to the terms and conditions set forth in this Agreement, Assignor hereby transfers, sets over and assigns to Assignee all of the right, title and interest of Assignor in, to and under the Incentive Grant Agreement.

2. Assumption. Assignee hereby accepts the foregoing assignment and hereby assumes and agrees to fulfill, perform and observe all of the terms, conditions and obligations of Assignor under the Incentive Grant Agreement.

3. Indemnification. Assignee shall indemnify, defend and hold Assignor harmless from any and all liability, loss, damage or expense (including reasonable attorney's fees) which Assignor may incur under the Incentive Grant Agreement after the date of this Agreement arising from any claims and demands whatsoever which may be asserted against Assignor by reason of the failure of Assignee to perform any of the terms, covenants or agreements contained in the Incentive Grant Agreement after the date hereof. Assignor shall indemnify, defend and hold Assignee harmless from any and all liability, loss, damage or expense (including reasonable attorney's fees) which Assignee may incur under the Incentive Grant Agreement after the date of this Agreement arising from any claims and demands whatsoever which may be asserted against Assignee by reason of the failure of Assignor to perform any of the terms, covenants or agreements contained in the Incentive Grant Agreement before the date hereof.

4. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of Assignor, Assignee, and their respective successors and assigns.

5. Completeness and Modification. This Agreement constitutes the entire agreement between the parties as to the transactions contemplated hereby and

supersedes all prior discussions, understandings or agreements between the parties. This Agreement may be modified only by a written instrument duly executed by the parties.

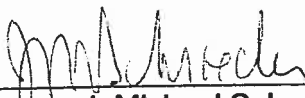
6. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original. In that event, in proving this Agreement, it shall only be necessary to produce or account for the counterpart signed by the party against whom the proof is being presented.

7. Governing Law. This Agreement and all other instruments referred to herein shall be governed by and shall be construed according the laws of the State of Delaware, without regard to principles of conflicts of law.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed on their behalf by their duly authorized representatives as of the date first above written.

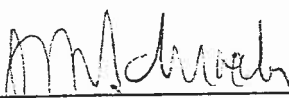
ASSIGNOR:

THE GREAT LAKES COMPANIES, INC.

By:   
Name: J. Michael Schroeder  
Title: Senior Vice President and  
General Counsel

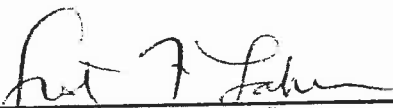
ASSIGNEE:

MASON FAMILY RESORTS, LLC  
By: Great Wolf Lodge of PKI, LLC

By:   
Name: J. Michael Schroeder  
Title: General Counsel and Corporate  
Secretary

CONSENTED TO:

CITY OF MASON, OHIO

By:   
Name: Scott F. Lechner  
Title: City Manager

ATTACHMENT "A"  
INCENTIVE GRANT AGREEMENT

This agreement is entered into this 14<sup>th</sup> day of December, 2004, by and between the CITY OF MASON, OHIO, an Ohio municipal corporation (hereinafter referred to as "City"), and THE GREAT LAKES COMPANIES, INC. (hereinafter referred to as "GREAT LAKES"), presently located at 122 West Washington Avenue, Madison, Wisconsin 53703.

**WHEREAS**, GREAT LAKES intends to construct an approximately 400-Room Great Wolf Lodge and approximately 40,000 square foot business conference center in Mason, Ohio (the "Project"), and in connection therewith shall make good faith efforts to create jobs at the Project; and

**WHEREAS**, the City proposes to grant an abatement of real estate property taxes on the improvements which will constitute a part of the Project for a period of 10 years; and

**WHEREAS**, pursuant to its authority under Ohio Constitution, Article VIII, Section 13, grants municipalities the authority to give financial assistance to private industry in order to create new employment within this state; and

**WHEREAS**, pursuant to that authority, the City proposes to expend an annual amount, equivalent to the revenue generated from a two percent (2%) bed tax (2/3 of the City's three percent (3%) bed tax) generated by the Project to be constructed in the City of Mason for a period of ten (10) years as an incentive for the Great Lakes Company, to locate its development in the City, make necessary public improvements relating to the construction of the facility, and create jobs; and

**WHEREAS**, the Council of the City of Mason believes that providing financial assistance to the Project will have a significant direct economic impact within the Mason area of nearly \$4 million annually, will further identify Mason as a tourist and business destination location, and will have a direct return on investment as a revenue generator back to the entire Mason community benefiting the people of the City of Mason by increasing opportunities for employment and strengthening the economic welfare of the City; and

**WHEREAS**, in connection with the above consideration on the part of GREAT LAKES and the CITY, the parties wish to enter into an Incentive Grant Agreement which will set forth the responsibilities and agreements of GREAT LAKES and the CITY; and

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

1. The CITY currently has a three percent (3%) Transient Occupancy Tax (bed tax) and has agreed to provide a financial incentive reimbursement of two-thirds of this three (3%) percent bed tax (but in no event less than the revenue generated by a two percent bed tax)

generated solely by the Project to be constructed in the City of Mason for a period of ten (10) years. Upon completion and successful opening of the Project, GREAT LAKES shall register the Project with the tax commissioner and immediately begin the collection of the Transient Tax pursuant to City Ordinance 36-1978. The City shall, upon receipt of the first Transient Tax remittance from GREAT LAKES begin the count of the ten (10) year incentive term. The City Finance Department will, upon receipt (payment frequency determined by tax ordinance) and verification of said tax remittance, make a reimbursement of two-thirds of three percent (3%) within 45 days of receipt.

2. GREAT LAKES will, after the completion of the Project, create approximately 250 jobs at the Project within the first three months of opening with average employment at the facility including approximately 18 full-time high salary positions (i.e. approximately 18 positions with an initial minimum annual salary of \$40,000) and an average of 350 part- and full-time jobs once fully staffed and will make a good-faith commercially reasonable effort to create additional jobs at the Project.
3. At the request of the City, GREAT LAKES shall provide the City reasonable documentation necessary to ensure compliance with the foregoing Sections 1 and 2 of this agreement.
4. The CITY has a keen interest in marketing Mason as a destination for business travel and corporate conference activity and wishes to promote Mason as a serious business environment to visitors of the region. GREAT LAKES will provide opportunities for the CITY to market the Mason community and business assets through the lodge and conference center. GREAT LAKES will display a Mason message designated by the CITY, daily during a high viewing time on the Lodge TV communication system. GREAT LAKES will allow the CITY to market the Mason business destination via brochures acceptable to GREAT LAKES in the conference center and in all rooms, suites and condo units.
5. GREAT LAKES will make the conference center available for CITY use for a reasonable number of days for bona fide events sponsored by the City, related to operations of the City and not in the nature of a for-profit public entertainment event; provided any such use (a) shall be scheduled in a manner which will minimize interference with the Conference Center and (b) shall require GREAT LAKES prior written consent, which consent shall not be unreasonably withheld.
6. In an effort to help the CITY market itself nationally and internationally GREAT LAKES will make every effort to promote whenever practical, in radio, television and print advertising, the Project location in the City of Mason.
7. GREAT LAKES will, as a requirement of the CITY granting the incentive during the ten-years that this Agreement is in place, make an annual payment to the Mason Community Improvement Corporation ("CIC") in the amount of Ten Thousand and No/100 Dollars (\$10,000.00) for the purpose of marketing the City of Mason for economic development. Ten annual payments shall be made to the CIC beginning not less than three months after

the opening date, and subsequently on or before January 15<sup>th</sup> of each remaining year of this Agreement, provided that the City is not in default hereunder this agreement. The CITY represents to GREAT LAKES that such payments paid by GREAT LAKES will not be used to provide economic incentives to projects, which may be contrary to GREAT LAKE'S interests.

8. GREAT LAKES shall submit to the City, at the City's request (but not more frequently than once per month), summary reports relating to the progress of the Project. Subject to force majeure conditions beyond its control, GREAT LAKES shall use reasonable commercial efforts to cause the Project to be completed, and the final narrative report submitted to the City, not later than March 31, 2007 or as extended by GREAT LAKES or their Contractor with written notification to the City within thirty (30) days, provided that this Agreement shall terminate upon the actual completion of the Project by GREAT LAKES and the City's fulfillment of its obligations under Section 1 above.
9. GREAT LAKES hereby agrees that the City is not responsible for, and that GREAT LAKES will defend and hold the City, its officials, agents, employees, and successors harmless from, liability resulting from the willful misconduct or negligence of GREAT LAKES 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).
10. GREAT LAKES will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, handicap, sexual orientation, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. GREAT LAKES will, in all solicitations or advertisements specifically concerning said public improvements and for employees placed by or on behalf of GREAT LAKES, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, handicap, sexual orientation, or age. GREAT LAKES will incorporate the foregoing requirements of this paragraph in all of its contracts for any work prescribed herein specifically related to the public improvements outlined in Attachment A of this document (other than subcontracts for standard commercial supplies or raw materials), and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.
11. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either GREAT LAKES or the City without the prior expressed written consent of the other party. Notwithstanding the forgoing, GREAT LAKES may assign all of its rights and obligations hereunder to an entity affiliated by common ownership and/or control with GREAT LAKES which entity is for the purpose of owning and operating the Project.

12. 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 GREAT LAKES: J. Michael Schroeder  
General Counsel  
The Great Lakes Companies, Inc.  
122 West Washington, Street, Suite 600  
Madison, WI 53703

13. The City may immediately terminate or suspend this Agreement IF GREAT LAKES fails to perform any requirements of this Agreement, or if GREAT LAKES is in violation of any material provision of this Agreement, which failure continues for a period of thirty (30) days or such longer period as may be reasonably required, after written notice thereof from the City. Without in any way limiting any other rights or remedies it may have, GREAT LAKES may immediately terminate or suspend this Agreement if the City fails to perform any requirements of this Agreement, or 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 GREAT LAKES. Both parties agree that the incentives provided herein by the City to GREAT LAKES are an important consideration in GREAT LAKES' decision to locate in the City. As such, the City warrants that GREAT LAKES will receive the full value of this incentives contemplated herein provided GREAT LAKES is in material compliance with the Agreement. GREAT LAKES' right to terminate this Agreement is not an adequate remedy for non-performance on the part of the City.

14. This agreement shall be construed, interpreted, and the rights of the parties determined in accordance with the laws of the State of Ohio.

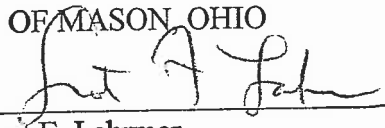
15. A determination that any part of this Agreement is invalid shall not invalidate or impair the force of effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation on the part so declared invalid.

16. 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.

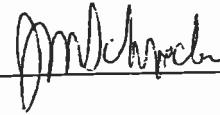
CITY OF MASON, OHIO

BY: \_\_\_\_\_

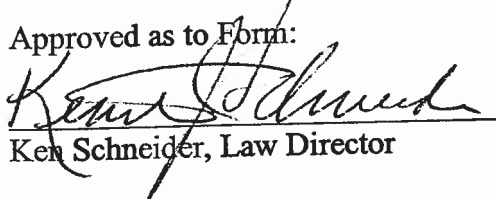
  
Scot F. Lahrmer  
City Manager

THE GREAT LAKES COMPANIES,  
INC.

BY: \_\_\_\_\_



Approved as to Form:

  
Ken Schneider, Law Director



## **PROJECT DESCRIPTION**

### **GREAT WOLF LODGE RESORT AND CONFERENCE CENTER Mason, Ohio**

This project represents over 450,000 square foot lodge resort and corporate (business) conference center facility, situated on approximately 39 acres. The Great Wolf Lodge resort is a four-story north wood's themed and log sided family resort and conference center with an attached indoor water park.

The City's commitment of public funds via the 10-year reimbursement of collected transient tax (bed tax) revenue will primarily facilitate the investment of over 10 million dollars in the development of a state-of-the-art approximately 40,000 square foot corporate conference center on the resort property. The conference center will accommodate approximately 1,200 people and includes multiple breakout rooms, a 10,000 square foot ballroom, a business center and other amenities. It is estimated that the construction of this facility will create significant jobs in the community and generate significant revenue to the City, the County, the Kings Local School District and the State of Ohio. The Resort is estimated to generate bed tax revenue of up to approximately \$600,000 per year. The City will continue to receive one third of the three percent (3%) for the agreed upon term, an estimated value of up to \$200,000.00. GREAT LAKES will receive two-thirds of the three percent (3%) for the agreed upon term, an estimated value of up to \$400,000.00.

**TO:** City Council  
**FROM:** Scot F. Lahrmer, City Manager  
**RE:** Approval of a Concept PUD and Rezoning of Property  
**DATE:** July 8, 2004

**ACTION REQUESTED:** On July 12, have a first reading and set a public hearing for August 9, 2004. On August 9<sup>th</sup>, hold a public hearing and consider **Ordinance 2004 – 97** approving the rezoning of approximately 76.96 acres located on the west side of SR 741, north of Bethany Road and south of Bunnell Road.

**PURPOSE:** To review and take action on the rezoning and concept PUD plan as reviewed at the July 6 Planning Commission meeting.

**SITE/PROJECT DESCRIPTION:** C. Francis Barrett of Barrett & Weber, representing River III, LLC of Mason, is requesting Concept Plan and rezoning approval of 76.96 acres of land zoned I-1 Light Industrial to Residential PUD on the west side of State Route 741, north of Bethany Road and south of Bunnell Road. The proposed Residential PUD will develop a 78 lot single-family residential subdivision. Steve Wallace, the owner of River III, developed Avalon Farms on the east side of SR. 741, north of the City-owned property Industrial PUD.

The requested Residential PUD is **not consistent with the goals and policies of the Comprehensive Plan or the Future Land Use Map**, which designates the subject property and surrounding properties to the east, south, and north as “Business Park.” Additionally, Figure 5 in the Comprehensive Plan designates the subject property as Business/Industrial.

C. Francis Barrett, in his letter dated July 1, 2004, lists site constraints that reportedly prevent the property from being developed by any of the uses permitted in the I-1 District. Poor soil conditions (lake deposits and peat soils), among other items, were mentioned making industrial development impractical. The applicant submitted soil boring test results to the Engineering and Building Department to support this claim however; such natural constraints equally apply to both residential and industrial development. As such, the same land area proposed for residential development on the Concept PUD Plan could also be developed as industrial. Other constraints that staff has noted making this area ~~Additional constraints on the property that seem to make it~~ undesirable for residential growth are the overhead electrical wires and easements that run through the property. Finally, Residential development is generally not consistent with the uses permitted in the adjacent Industrial PUD and I-1 District to the east and the I-1 District to the south.

~~Residential development is generally not consistent with the uses permitted in the adjacent Industrial PUD and I-1 District to the east and the I-1 District to the south.~~  
Permitting residential zoning at this location may set an undesirable precedent whereby additional residential rezoning of industrial zoned land are requested to permit more residential development in the “Business Park” future land use designation.

Planning Commission and Staff recommend that the application to rezone 76.96 acres of land zoned I-1 Light Industrial to Residential PUD be denied because the proposed zone change is not consistent with the Future Land Use Map of the Comprehensive Plan, the uses permitted in the proposed zoning district are not consistent with surrounding uses, and an undesirable precedent may be set if zoning is approved. Additionally, the Business Park future land use designation supports a long-standing city policy of locating industrial/office parks at major thoroughfares throughout the city to provide for long-term economic development, a diverse local economy, and job creation. Approving residential zoning at this location is not consistent with our land use plan and may initiate other residential rezoning and make business park development to the north of the site more difficult in the future after a residential land use pattern is established.

Please contact me if you have any questions.

c: Richard J. Fair, City Engineer  
Scott Burkardt, Subdivision Engineer