

ORDINANCE NO. 2006-112

**AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADDENDUM TO THE AGREEMENT OF PURCHASE AND SALE FOR THE PURCHASE OF THE GOLF CENTER AT KINGS ISLAND FROM GRIZZLY GOLF CENTER, INC., DECLARING AN EMERGENCY**

WHEREAS, pursuant to Ordinance 2006-72, the Council of the City of Mason has previously authorized the Agreement of Purchase and Sale for the Golf Center at Kings Island; and

WHEREAS, the parties to that Agreement have mutually agreed to an additional payment structure for VIP passes to the Golf Center; and

WHEREAS, the parties mutually agree that the most appropriate manner to memorialize this understanding is by executing an Addendum to the Agreement of Purchase and Sale.

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

Section 1. That the City Manager is hereby authorized and directed to execute and Addendum to the Agreement of Purchase and Sale involving the purchase of the Golf Center of Kings Island from Grizzly Golf Center, Inc.

Section 2. That said Addendum is attached hereto as Exhibit "A" and incorporated herein by reference.

Section 3. That the terms of the Addendum are as indicated in the attached Exhibit "A", which terms are subject to modifications by the Law Director of the City of Mason consistent with the overall purpose of this Addendum.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall be effective immediately upon its passage. The reason for said declaration of emergency is the need to complete the acquisition of the property at the earliest possible date prior to the expiration of the Agreement.

Passed this 11<sup>th</sup> day of September, 2006

Attest:

  
Clerk of Council

  
Mayor

## ADDENDUM TO AGREEMENT OF PURCHASE AND SALE

THIS ADDENDUM TO AGREEMENT OF PURCHASE AND SALE ("Addendum") is dated as of September \_\_\_\_, 2006 between GRIZZLY GOLF CENTER, INC., an Ohio corporation ("Seller"), and CITY OF MASON, OHIO, a political subdivision existing under the laws of the State of Ohio ("Purchaser"). Capitalized terms used but not defined herein shall have the meanings assigned to them in the Agreement of Purchase and Sale ("Purchase Agreement") dated July 11, 2006 between Seller and Purchaser.

### RECITALS

WHEREAS, Seller and Purchaser entered into the Purchase Agreement pursuant to which Seller agreed to sell its interest in the Property commonly known as "The Golf Center At Kings Island" (the "Center") to Purchaser; and

WHEREAS, Seller and Purchaser now desire to enter into this Addendum to amend the Purchase Agreement as provided for herein below.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- VIP Fund. At Closing, Seller shall pay to Purchaser the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) (the "VIP Fund") in immediately available funds as prepayment for the future cost of greens fees on The Golf Center at Kings Island's Bruin and Grizzly golf courses and associated cart rental fees utilized by: (i) holders of "VIP Passes" ("VIP Pass Holders") issued by American Financial Group, Inc. ("AFG"), and (ii) other persons designated by AFG from time to time ("AFG Designees"). The VIP Fund will be reduced by the actual cost of greens fees and cart rental fees incurred by VIP Pass Holders, AFG Designees, and their respective guests, at the time such costs are incurred and at their then current rate. Either AFG or Seller, or their designees, may make additional payments to Purchaser which shall add to the balance of the VIP Fund.
- Requests for Tee Times. Purchaser will cause requests for tee times and cart rentals by VIP Pass Holders, AFG Designees, and their respective guests, to be honored by the Center's Pro Shop personnel. AFG will from time to time furnish Purchaser and the Center's Pro Shop personnel with (i) a list of the names of VIP Pass Holders, and (ii) the name(s) of AFG personnel authorized to request tee times and cart rentals for AFG Designees ("AFG Representatives").
- Records. Purchaser will cause the Center's Pro Shop personnel to record the number and associated cost of rounds played and carts rented by AFG Designees and VIP Pass Holders and furnish Purchaser and AFG a report of same at the end of each calendar month. Purchaser will cause the Center's Pro Shop personnel to notify AFG when the balance in the VIP Fund falls below Twenty-Five Thousand Dollars (\$25,000).
- VIP Pass Terms and Conditions. Each VIP Pass Holder will be subject to the following terms and conditions: (i) each VIP Pass is not transferable and must be presented each

time the VIP Pass Holder checks in at the Center Pro Shop, (ii) each VIP Pass Holder must identify himself or herself on the phone as an American Financial Group VIP Pass Holder when making tee time reservations, (iii) tee times may be reserved by VIP Pass Holders up to 21 days in advance for Monday through Friday tee times and up to 7 days in advance for Saturday, Sunday and holiday tee times, and (iv) each VIP Pass entitles the Pass Holder's party to tee times and golf cart rentals at Center, the value of which will be deducted from the VIP Fund.

5. AFG Designee Terms and Conditions. Each AFG Designee will be subject to the following terms and conditions: (i) use by AFG Designees and their parties must be authorized by a phone call to Center's Pro Shop by an AFG Representative prior to any use by an AFG Designee and their guests, (ii) tee times may be reserved for AFG Designees and their guests up to 21 days in advance for Monday through Friday tee times and up to 7 days in advance for Saturday, Sunday and holiday tee times, and (iii) the value of tee times and golf cart rentals utilized by AFG Designees and their parties will be deducted from the VIP Fund.

6. Miscellaneous. This Addendum, taken together with the Purchase Agreement, constitutes the entire agreement and understanding of Seller and Purchaser with respect to the subject matter hereof and thereof. Except as expressly amended by this Addendum, the Purchase Agreement remains in full force and effect as originally executed and delivered. This Addendum shall be construed under, and governed by, the internal substantive laws of the State of Ohio. This Addendum may be executed in counterparts

*[Remainder of page intentionally left blank. Signature page follows.]*

IN WITNESS WHEREOF, the undersigned have hereunto set their respective hands as of the date and year first written above.

**PURCHASER:**

CITY OF MASON,  
a political subdivision existing  
under the laws of the State of Ohio

By: \_\_\_\_\_  
Name:  
Title:

**SELLER:**

GRIZZLY GOLF CENTER, INC.

By: \_\_\_\_\_  
Name: James C. Ashworth  
Title: President