

ORDINANCE NO. 2009 - 106

AN ORDINANCE AUTHORIZING THE LEASE-PURCHASE FINANCING OF RENOVATIONS TO AND EXPANSION OF THE MUNICIPAL COMMUNITY CENTER, INCLUDING A GROUND LEASE AGREEMENT AND A LEASE AGREEMENT, AND MATTERS RELATED THERETO AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Mason, Warren County, Ohio (the "City"), has determined to renovate and expand the municipal community center located on Mason-Montgomery Road (the "Project"); and

WHEREAS, in order to provide financing for the construction, renovation, expansion and improvement of such facilities and pursuant to Ohio Revised Code Section 715.01.1 and the City Charter it is determined to be necessary and appropriate to undertake a lease-purchase financing program as described herein; and

WHEREAS, the estimated cost of such facilities shall not exceed \$11,000,000 and the amount to be financed, including the cost of municipal bond insurance, debt service reserve fund, and other costs of issuance, shall not exceed \$12,000,000;

NOW, THEREFORE, be it ordained by the City Council of the City of Mason, Warren County, Ohio:

SECTION 1. It is hereby determined to be necessary and in the best interest of the inhabitants and citizens of the City, and the City hereby agrees, to construct, renovate, expand and improve or cause to be constructed, renovated, expanded and improved the Project, in accordance with the plan of lease financing described in this Ordinance. The Project shall be constructed, renovated, expanded and improved on a parcel of land presently owned by the City (referred to as the "Site") located on Mason-Montgomery Road in the City, all as more particularly described on Exhibit A to the Ground Lease Agreement referred to herein.

SECTION 2. The City shall lease the Site, together with such related portions of the Site as may be required to comply with the requirements of RBC Capital Markets Corporation, Cincinnati, Ohio, to such entity as the City Manager of the City shall designate (the "Ground Lessor") pursuant to a Ground Lease Agreement (the "Ground Lease") to be dated as determined by the City Manager, in substantially the form presently on file with this Council, which is hereby approved. The City Manager of the City, is hereby authorized to execute and deliver the Ground Lease on behalf of the City with such changes not substantially adverse to the City as the City Manager may approve; the approval of such changes and that the same are not substantially adverse to the City shall be conclusively evidenced by the execution of the Ground Lease by such official. The initial term of the Ground Lease shall be until December 31, 2009, provided that the Ground Lessor or its assignee shall have the right to renew for a total of not more than twenty-five (25) additional one-year renewal terms beginning on January 1, 2010 and continuing on January 1 of each year thereafter through and including the last renewal term which shall not be later than January 1, 2034 to the earlier of December 31, 2034 or the termination date of the last permitted renewal term of the Lease (as defined below), as determined by the Finance Director. The Ground Lease shall provide for the payment, in advance for all permitted renewal terms, of rent in the amount of One Dollar (\$1.00) per year.

SECTION 3. The City shall sublease the Site and related grounds and facilities, if any, back from the Ground Lessor pursuant to a Lease Agreement (the "Lease") dated of even date with the Ground Lease, in substantially the form presently on file with this Council, which is hereby approved. The City Manager is hereby authorized to execute and deliver the Lease on behalf of the City with such changes not substantially adverse to the City as the City Manager may approve; the approval of such changes and that the same are not substantially adverse to the City shall be conclusively evidenced by the execution of the Lease by such official. The Lease shall require the City, as agent for the Ground Lessor, to construct, renovate, expand and improve or cause to be constructed, renovated, expanded and improved on the Site, the Project, and shall provide, among other things, for the payment of Base Rent from the City to the Ground

Lessor or its assignee. Base Rent shall be payable in periodic installments over the term of the Lease, in such amounts and at such times as shall be determined by the City Manager, provided that the actual Base Rent payments shall not exceed in any year the amounts that would be required if the applicable interest rate were seven and one-half percent (7-½%) per annum applied on a principal amount of not to exceed \$12,000,000. The initial term of the Lease shall be until December 31, 2009, provided that the City shall have the right to renew for a total of not more than twenty-five (25) additional one-year renewal terms as determined by the City Manager, beginning on January 1, 2010 and continuing on January 1 of each year thereafter through and including the last renewal term which shall not be later than January 1, 2034 to December 31, 2034. The Lease shall provide for termination in the event the City fails to appropriate funds adequate to pay rent due with respect to any renewal term.

SECTION 4. The City hereby consents to and approves the assignment of the Ground Lease and the Lease from the Ground Lessor to a bank to be selected by the Finance Director without further action of this Council, which bank shall be set forth in the Certificate of Award, as Trustee, and the execution of a Trust Indenture (the "Indenture") relating to the collection and distribution of rental payments and the issuance of Certificates of Participation (City of Mason Community Center Project) (the "Certificates") evidencing proportionate interests in the Base Rent to be paid by the City under the Lease. The form of the Indenture and of the Certificates in substantially the forms presently on file with this Council, and the issuance of the Certificates, are hereby approved. The City Manager is hereby authorized to execute and deliver the Indenture on behalf of the City with such changes not substantially adverse to the City as the City Manager may approve; the approval of such changes and that the same are not substantially adverse to the City shall be conclusively evidenced by the execution of the Indenture by such official. The City hereby authorizes and directs that the Certificates shall be sold to RBC Capital Markets Corporation, Cincinnati, Ohio, at a price not less than the par value thereof, and resold at a price or prices approved by the City Manager. The determinations of the final terms of sale of the Certificates, and the resulting Lease terms, including the interest rate, financed amount, term, and amortization schedule, together with any other matters required by this Ordinance to be determined or approved by the City Manager, shall be set forth by the City Manager in the Certificate of Award.

SECTION 5. The City agrees to execute and perform the Ground Lease and the Lease in accordance with the terms thereof. The City agrees to comply with the terms and conditions of the Indenture insofar as they relate to the City, and further agrees to comply with the terms and conditions of such additional documents and agreements relating thereto as shall be deemed, by the Finance Director or the City Manager, or any of them, in their discretion, necessary or appropriate in connection with the financing herein described.

SECTION 6. The Clerk, the Finance Director and the City Manager, or any of them, are hereby authorized and directed to execute and deliver, on behalf of the City, such additional instruments, documents, agreements, certificates, and other papers as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance in such forms as the official executing the same may approve.

SECTION 7. Nothing in the Ground Lease, the Lease, the Indenture, the Certificates, or any agreements or documents relating thereto shall constitute or be construed or deemed to constitute a debt or bonded indebtedness or a general obligation of this Council, the City or any agency of the City. Neither the taxing power nor the full faith and credit of this Council or the City are pledged or shall be pledged for the payment or security of the Ground Lease, the Lease, the Indenture, the Certificates, or any other related agreement or document.

SECTION 8. The City hereby covenants that it will restrict the use of the proceeds of the Lease and the Certificates hereby authorized in such manner and to such extent, if any, as may be necessary after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute "arbitrage bonds" under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations prescribed thereunder and will, to the extent possible, comply with all other applicable provisions of the Code and the regulations thereunder to retain the federal income tax exemption for interest on the Lease and the Certificates, including any expenditure requirements, investment limitations,

rebate requirements or use restrictions. The Finance Director or any other officer having responsibility with respect to the issuance of the Certificates is authorized and directed to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 and the Regulations.

The Lease has been designated as a "qualified tax-exempt obligation" for the purposes set forth in Section 265(b)(3) of the Code.

SECTION 9. There is hereby appropriated from the net proceeds of the Certificates, to the extent the same are available for the payment of costs of the Project, a sum not to exceed \$12,000,000, to be used for the payment of such costs, as outlined herein, and funding a reserve fund for the Lease and the Certificates. There is further appropriated, from unappropriated funds currently on deposit in the General Fund of the City, the sum of \$0 to pay the cost of lease payments due or coming due under the Lease for the initial term ending December 31, 2009.

SECTION 10. The Finance Director and the City Manager, or either of them, are each hereby separately authorized, alone or with others, to prepare and distribute to prospective purchasers of the Certificates and other interested parties, a preliminary offering circular with respect to the Certificates on behalf of the City, which shall be in substantially the form presently on file with the Council, which is hereby approved, with such changes not substantially adverse to the City as such official may approve, and which shall be deemed final for purposes of Securities and Exchange Commission Rule 15c2-12(b)(1) except for certain information excluded therefrom in accordance with such Rule. Such officials, or any of them, are hereby authorized to prepare, execute and deliver an offering circular with respect to the Certificates on behalf of the City, which shall be in such form and with such changes from the preliminary offering circular as the official executing the same may approve, and which shall be deemed to be final for purposes of Securities and Exchange Commission Rule 15c2-12(b)(3). Execution or delivery thereof on behalf of the City by such official shall be conclusive evidence of such authorization and approval and that any such changes are not substantially adverse to the City, and copies thereof are hereby authorized to be prepared and furnished to the purchaser of the Certificates for distribution to prospective purchasers of the Certificates and other interested persons.

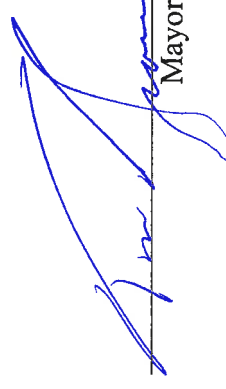
The City hereby covenants and agrees that it will execute, comply with and carry out all the provisions of a continuing disclosure certificate dated the date of issuance and delivery of the Certificates (the "Continuing Disclosure Certificate") in connection with the issuance of the Certificates. Failure to comply with any such provisions of the Continuing Disclosure Certificate shall not constitute a default on the Certificates; however, any holder of the Certificates may take such action as may be necessary and appropriate, including seeking specific performance, to cause the City to comply with its obligations under this paragraph and the Continuing Disclosure Certificate.

SECTION 11. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 12. That this ordinance is hereby declared to be an emergency measure for the reason that the public peace, health, safety and welfare of the inhabitants of the City of Mason require the immediate undertaking of a lease-purchase financing program including obtaining a favorable interest rate, to provide funds for the construction, renovation, expansion and improvement of the community center in the City, and this ordinance shall take effect immediately upon its adoption.

PASSED: September 28, 2009.

Attest:



Mayor


Clerk of Council

CERTIFICATE

The undersigned, Clerk of Council of the City of Mason, Warren County, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 2009-106 passed by the Council of the City of Mason, Ohio, on September 28, 2009.


Clerk of Council

CERTIFICATE

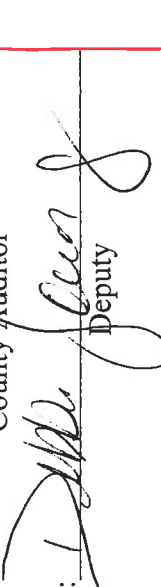
The undersigned, Finance Director of the City of Mason, County of Warren, Ohio, hereby certifies that a copy of the foregoing Ordinance No. 2009-106 passed by the Council of the City of Mason, County of Warren, Ohio, on September 28, 2009, was certified this day to the County Auditor of the County of Warren, Ohio.


Finance Director

RECEIPT

The undersigned, County Auditor of the County of Warren, Ohio, hereby acknowledges receipt this day of the foregoing Ordinance No. 2009-106 passed by the Council of the City of Mason, County of Warren, Ohio, on September 28, 2009.


County Auditor

By: 
Deputy

Oct. 13, 2009

EXTRACT FROM MINUTES OF MEETING

The Council of the City of Mason, County of Warren, Ohio, met in regular session, at 7:00 p.m., on the 28th day of September, 2009, at 6000 Mason Montgomery Road, with the following members present: ALL PRESENT

There was presented and read to Council Ordinance No. 2009-106, entitled:

AN ORDINANCE AUTHORIZING THE LEASE-PURCHASE FINANCING OF RENOVATIONS TO AND EXPANSION OF THE MUNICIPAL COMMUNITY CENTER, INCLUDING A GROUND LEASE AGREEMENT AND A LEASE AGREEMENT, AND MATTERS RELATED THERETO.

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

Mr. Beck then moved that Ordinance No 2009-106 be adopted. MS. Shiprock seconded the motion and, the roll being called upon the question, the vote resulted as follows: All YEA's

The ordinance was declared passed September 28, 2009.

CERTIFICATE

The undersigned, clerk of council of said municipality, hereby certifies that the foregoing is a true and correct extract from the minutes of a meeting of the council of said municipality, held on the 28th day of September, 2009, to the extent pertinent to consideration and adoption of the above-entitled legislation.


Clerk of Council

Capital Real Estate Partners, LLC

BROKERAGE AND MANAGEMENT
LICENSED REAL ESTATE BROKER

EXHIBIT
A

SCHEDULE OF LEASE COMMISSIONS

FOR PROPERTY AT 6050 Mason Montgomery Road, and is further described as follows:

Current Facility is approximately 120,000 square feet

Expansion Area to include:

- TriHealth Medical Office facility - 27,000 square feet
- Bethesda Rehab facility - 4,000 square feet
- Mason Expansion - approximately 32,000 square feet
- **Additional space available for tenants approximately 11,000 square feet (this is the area that is actually being listed for lease per the terms of this agreement)**

Commissions shall be earned on execution of a lease by Owner and a tenant, in accordance with the following rates:

No Cooperating Broker Involved

6% of the total base rental for the first 60 months in which rent is to be paid, plus 3%, of the total base rental for the remainder of the term.

Cooperating Broker Involved

9% of the total base rental for the first 60 months in which rent is to be paid, plus 4 1/2% of the total base rental for the remainder of the term.

In addition to the commissions noted above, consulting fees shall be earned by Broker on an hourly basis as Broker provides consultation services to the Owner in accordance with the following rates: \$100 per hour. Consulting fees will be paid within 14 days of invoice receipt.

The above commission rates are subject to the following provisions:

1. *Term of More Than 25 Years:*
If a lease term is in excess of 25 years then the commission shall be calculated only upon the base rental to be paid for the first 25 years of the lease term.
2. *Month to Month Tenancy:*
The commission shall be 50% of the first month's base rental.

3. *Option(s) or Right(s) of First Refusal to Renew, Extend Lease or Occupy Additional Space:*

If a lease for which a commission is payable hereunder contains (i) an option(s) or right(s) of first refusal to renew or extend, and a lease term(s) is renewed or extended whether strictly in accordance with the terms of such option(s) or right(s) or otherwise and/or (ii) an option(s) or right(s) of first refusal to expand, and a tenant occupies additional space whether strictly in accordance with the terms of such option(s) or right(s) or otherwise, then Owner shall pay a leasing commission in accordance with the provisions of this Schedule on the additional base rental to be paid, calculated at the commission rate applicable hereunder to the years of the lease in which the additional base rental is payable. Said commission shall be earned and payable at the time the extended term commences or the additional space is occupied, as applicable.

4. *Purchase of Property by Tenant:*

If a lease for which a commission is payable hereunder contains an option, right of first refusal, or similar right, and a tenant, its successors or assignees, or any agent, officer, employee or shareholder of a tenant purchases the Property whether strictly in accordance with the terms of such option, right of first refusal, similar right or otherwise during (a) the term of the lease, (b) any extension thereof, or (c) within ninety days after the expiration thereof, then a sales commission shall be calculated and paid in accordance with the provisions of Section A above; provided however, that there shall be a credit against such sales commission in the amount of lease commissions previously paid to Broker relating to that portion of the purchaser's lease term which is canceled by reason of such sale. In no event shall such credit exceed the amount of such sales commission.

In the event Owner fails to make payments within the time limits set forth herein, then from the date due until paid the delinquent amount shall bear interest at the maximum rate permitted in the state in which the office of Broker executing this Schedule is located. If Broker is required to institute legal action against Owner relating to this Schedule or any agreement of which it is a part, Broker shall be entitled to reasonable attorneys' fees and costs.

Owner hereby acknowledges receipt of a copy of this Schedule and agrees that it shall be binding upon its heirs, successors and assignees. In the event Owner sells or otherwise disposes of its interest in the Property, Owner shall remain liable for payment of the commissions provided for in this Schedule and any agreement of which it is a part, including, without limitation, the commission obligations set forth in paragraphs 3 and 4 above, unless the purchaser or transferee assumes all of such obligations in writing. The term "Owner" as used herein shall be deemed to include the owner of the Property, a party under contract to acquire the Property, a tenant under a ground lease and a tenant of the Property wishing to effect a sublease, lease assignment, or lease cancellation. The term "tenant" as used herein shall be deemed to include any subtenant, or assignee of a tenant, and the term "lease" shall be deemed to include a sublease or lease assignment.

[THIS AREA INTENTIONALLY LEFT BLANK]

APPROVED this _____ day of _____, 20____

at _____ (am / pm) (circle one)

Capital Real Estate Partners, LLC
(“Broker”)

City of Mason, Ohio
(“Owner”)

By: _____

By: _____

Title: President

Title: _____

Address: 312 Walnut St.

Address: 6000 Mason Montgomery Rd.

Suite 1600

Mason, OH 45040

Cincinnati, OH 45202

Telephone: (513) 762-7622

Telephone: _____

Capital Real Estate Partners, LLC

BROKERAGE AND MANAGEMENT
LICENSED REAL ESTATE BROKER

EXCLUSIVE LEASING LISTING AGREEMENT

1. In consideration of the listing for lease of the real property hereinafter described (the "Property") by CAPITAL REAL ESTATE PARTNERS, LLC ("Broker") and Broker's agreement to use its best efforts to effect a lease or leases of same, the undersigned ("Owner") hereby grants to Broker the exclusive right to negotiate a lease or leases of the Property for a period commencing August 11, 2009, and ending midnight December 31, 2010 (the "Term"). The lease(s) shall be on the following terms: \$14.00 per square foot, net of common area maintenance charges and operating expenses – i.e., both of which are in addition to this lease rate.

The Property is situated in the City of Mason, County of Warren, State of Ohio is located at 6050 Mason Montgomery Road, and is further described as follows:

Current Facility is approximately 120,000 square feet

Expansion Area to include:

- TriHealth Medical Office facility - 27,000 square feet
- Bethesda Rehab facility - 4,000 square feet
- Mason Expansion - approximately 32,000 square feet
- **Additional space available for tenants approximately 11,000 square feet (this is the area that is actually being listed for lease per the terms of this agreement)**

References herein to the Property shall be understood to include portions of the Property.

2. Owner agrees to pay Broker a leasing commission in accordance with Broker's Schedule of Sale and Lease Commissions (the "Schedule"), a copy of which is executed by Owner, attached hereto and hereby made a part hereof. This commission shall be earned for services rendered if, during the Term: (a) the Property is leased to a tenant procured by Broker, Owner or anyone else; (b) a tenant is procured, by Broker, Owner, or anyone else, who is ready, willing and able to lease the Property on the terms above stated, or on any other terms agreeable to Owner and consistent, non-competitive and complimentary with other services in the building; (c) any contract for the lease of the Property is entered into by Owner; or (d) Owner

removes the Property from the market. Broker is authorized to co-operate with and to share its commission with other licensed real estate brokers, regardless of whether said brokers represent prospective tenants or act as Broker's subagents.

3. Owner further agrees to pay Broker a commission in accordance with the Schedule, if, within one hundred twenty (120) calendar days after the expiration or termination of the Term the Property is leased to, or negotiations continue, resume or commence and thereafter continue leading to the execution of a lease with any person or entity (including his/her/its successors, assigns or affiliates) with whom Broker has negotiated (either directly or through another broker or agent) or to whom the Property has been submitted prior to the expiration or termination of the Term. Broker is authorized to continue negotiations with such persons or entities. Broker agrees to submit a list of such persons or entities to Owner not later than fifteen (15) calendar days following the expiration or termination of the Term, provided, however, that if a written offer has been submitted it shall not be necessary to include the offeror's name on the list.
4. OWNER FURTHER AGREES THAT (a) IF A SALE, EXCHANGE OR OPTION TO PURCHASE THE PROPERTY IS MADE DURING THE TERM TO ANYONE, OR (b) IF, WITHIN ONE HUNDRED TWENTY (120) CALENDAR DAYS AFTER THE EXPIRATION OR TERMINATION OF THE TERM, THE PROPERTY IS SOLD, EXCHANGED, OR AN OPTION TO PURCHASE IS GRANTED, OR NEGOTIATIONS CONTINUE, RESUME OR COMMENCE AND THEREAFTER CONTINUE LEADING TO A SALE, EXCHANGE OR GRANT OF AN OPTION TO ANY PERSON OR ENTITY AS DESCRIBED IN PARAGRAPH 3 ABOVE, OWNER SHALL PAY BROKER A SALES COMMISSION IN ACCORDANCE WITH THE SCHEDULE.
5. Commissions shall be payable hereunder at the earlier of lease execution, closing, closing of escrow, recordation of the deed, or possession by the purchaser or tenant.
6. If security, earnest money or similar deposits made by a prospective tenant or purchaser are forfeited, in addition to any other rights of Broker pursuant to this Agreement, Broker shall be entitled to one-half (1/2) thereof, but not to exceed the total amount of the anticipated commission.
7. To the extent permitted by applicable law, Broker is authorized to deduct its commissions from any deposits, payments or other funds, including proceeds of rental payments or sale, paid by a tenant or purchaser in connection with a transaction contemplated by this Agreement, and Owner hereby irrevocably assigns said funds and proceeds to Broker to the extent necessary to pay said commissions. Broker is authorized to provide a copy of this Agreement to any tenant or escrow or closing agent working on such transaction, and such escrow or closing agent, or tenant, is hereby instructed by Owner to pay Broker's commissions from any such

funds or proceeds available. Owner shall remain liable for the entire amount of said commissions regardless of whether Broker exercises its rights under this paragraph.

8. Owner and Broker agree that the Property will be offered in compliance with all applicable federal, state and local anti-discrimination laws and regulations. **Fair Housing Statement:** It is illegal, pursuant to the Ohio Fair Housing Law, division (H) of Section 4112.02 of the Revised Code and the Federal Fair Housing Law, 42 U.S.C.A. 3601, to refuse to sell, transfer, assign, rent, lease, sublease or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status as defined in Section 4112.01 of the Revised Code, ancestry, disability as defined in that section, national origin or military status or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services. It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes.
9. Owner agrees to cooperate with Broker in effecting leases of the Property and immediately to refer to Broker all inquiries of anyone interested in the Property. All negotiations are to be through Broker. Broker is authorized to accept a deposit from any prospective tenant and to handle it in accordance with the instructions of the parties unless contrary to applicable law. Broker is exclusively authorized to advertise the Property and exclusively authorized to place a sign(s) on the Property if, in Broker's opinion, such would facilitate the leasing of the Property. All signage installed must be consistent with Mason's sign ordinance regulations. Owner represents that it is the owner of the Property. Owner and its counsel will be responsible for determining the legal sufficiency of a lease and any other documents relating to any transaction contemplated by this Agreement.
10. Owner agrees to disclose to Broker and to prospective tenants or purchasers any and all information which Owner has regarding present and future zoning and environmental matters affecting the Property and the condition of the Property, including, but not limited to structural, mechanical and soils conditions, the presence and location of asbestos, PCB transformers, other toxic, hazardous or contaminated substances, and underground storage tanks in, on or about the Property. Broker is authorized to disclose any such information to prospective tenants or buyers.
11. Owner acknowledges that Broker is a regional brokerage firm and that in some cases it may represent prospective tenants or purchasers, Owner desires that the Property be presented to such persons or entities, and consents to the dual representation created thereby. Broker shall not disclose the confidential information of one principal to the other.

12. In the event that the Property comes under the jurisdiction of a bankruptcy court, Owner shall immediately notify Broker of the same, and shall promptly take all steps necessary to obtain court approval of Broker's appointment, unless Broker shall elect to terminate this Agreement upon said notice.
13. In the event that the Property becomes the subject of foreclosure proceedings prior to the expiration of this Agreement, then this Agreement shall be deemed suspended until such time as the Owner may reacquire his interest in the Property within the Term. It this Agreement is suspended pursuant to this paragraph, Broker shall be free to enter into a listing agreement with any receiver, the party initiating the foreclosure, the party purchasing the Property at a foreclosure sale, or any other person having an interest in the Property.
14. In the event of any dispute between Owner and Broker relating to this Agreement, the Property or Owner or Broker's performance hereunder, Owner and Broker agree that such dispute shall be resolved by means of binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. Depositions may be taken and other discovery obtained during such arbitration proceedings to the same extent as authorized in civil judicial proceedings in the state where the office of Broker executing this Agreement is located. The arbitrators shall be limited to awarding compensatory damages and shall have no authority to award punitive, exemplary or similar type damages. The prevailing party in the arbitration proceeding shall be entitled to recover its expenses, including the costs of the arbitration proceeding, and reasonable attorneys' fees.
15. In the event that Owner lists Property with another broker after the expiration or termination of this Agreement, Owner agrees to provide in the subsequent listing agreement that a commission will not be payable to the new broker with respect to transactions for which Owner remains obligated to pay a commission to Broker under paragraphs 3 or 4 hereof, Owner's failure to do so, however, shall not affect Owner's obligations to Broker under paragraphs 3 or 4 hereof.
16. Along with execution of this Agreement, Owner will send Broker a check in the amount of \$3,000, made payable to Broker, to pay for any or all of the following marketing expenses as deemed appropriate by Broker: production and installation of marketing signage, production of marketing brochures, acquiring marketing lists of logical prospects, and expenses associated with delivering the brochures to logical prospects for the Property.
17. Each signator to this Agreement represents and warrants that (s)he has full authority to sign this Agreement on behalf of the party for whom (s)he signs and that this Agreement binds such party.

18. This Agreement constitutes the entire agreement between Owner and Broker and supersedes all prior discussions, negotiations and agreements, whether oral or written. No amendment, alteration, cancellation or withdrawal of this Agreement shall be valid or binding unless made in writing and signed by both Owner and Broker. This Agreement shall be binding upon, and shall benefit, the heirs, successors and assignees of the parties.

The undersigned Owner hereby acknowledges receipt of a copy of this Agreement.

APPROVED this _____ day of _____, 20____ at _____ (am / pm) (circle one)

Capital Real Estate Partners, LLC
("Broker")

City of Mason, Ohio
("Owner")

By: _____

By: _____

Title: President
Address: 312 Walnut St.
Suite 1600
Cincinnati, OH 45202
Telephone: (513) 762-7622

Title: _____
Address: 6000 Mason Montgomery Rd.
Mason, OH 45040
Telephone: _____

CONSULT YOUR ADVISORS - This document has legal consequences. No representation or recommendation is made by Broker as to the legal or tax consequences of this Agreement or the transaction(s) which it contemplates. These are questions for your attorney and financial advisors.