ORDINANCE NO. 2010-07
INTRODUCED BY: Mayor Rinker and Council as a Whole

**AN EMERGENCY ORDINANCE
AUTHORIZING AND DIRECTING THE MAYOR
TO ENTER INTO A LEASE AGREEMENT WITH THE
CUYAHOGA EAST VOCATIONAL EDUCATION CONSORTIUM ("CEVEC")
FOR THE PURPOSE OF LEASING THE REAL ESTATE
LOCATED AT 6532 WHITE ROAD, MAYFIELD VILLAGE, OHIO 44143.**

WHEREAS, the Village is the owner of residential real estate located at 6532 White Road, Mayfield Village, Ohio 44143; and

WHEREAS, it has been found and determined that entering into a Lease Agreement with CEVEC for the use of this property in coordination with CEVEC's Community Living Skills Program, would serve a public necessity and convenience; and

WHEREAS, the Village wishes to enter into a Lease Agreement with CEVEC; and

WHEREAS, the subject Lease Agreement will be maintained by the Director of Finance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF MAYFIELD VILLAGE, OHIO THAT:

SECTION 1. The Mayor is authorized and directed to enter into such Lease Agreement between CEVEC and the Village of Mayfield pursuant to the terms and conditions set forth in the Lease which is attached hereto and incorporated herein by reference as Exhibit "A".

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure immediately necessary for the health, safety and welfare of the residents of Mayfield Village, Ohio. It shall, therefore, take effect immediately upon the passage by the

affirmative vote of not less than five (5) members elected to Council and approval by the Mayor or otherwise at the earliest time allowed by law.

WILLIAM BUCKHOLTZ
Council President

First Reading: February 15, 2010

Second Reading: Suspended 2010

Third Reading: Suspended 2010

PASSED: February 15, 2010 2010

BRUCE G. RINKER, Mayor

APPROVED AS TO FORM:

JOSEPH W. DIEMERT, JR.
DIRECTOR OF LAW

ATTEST:
MARY E. BETSA,
Clerk of Council

LEASE AGREEMENT

This Lease Agreement is made and entered into at Mayfield Village, Ohio this 25th day of February, 2010, by and between the **VILLAGE OF MAYFIELD**, whose mailing address is 6622 WILSON MILLS ROAD, MAYFIELD VILLAGE, OHIO 44143, (hereinafter called **LESSOR),** and the **CUYAHOGA EAST VOCATIONAL EDUCATION CONSORTIUM ("CEVEC")**, whose mailing address is 211 Alpha Park Drive, Highland Heights, Ohio 44143 (hereinafter called **LESSEE).**

WITNESSETH:

1. **PREMISES.** That **LESSOR** does hereby let and lease unto **LESSEE**, the **PREMISES**, (hereinafter referred to as the **PREMISES**), located at **6532 WHITE ROAD, MAYFIELD VILLAGE, OHIO, 44143**.

2. **TERM.** The parties agree that this Lease Agreement shall be for a month-to-month term, unless terminated earlier by either **LESSOR** or **LESSEE** upon a thirty (30) day written notice to the **LESSEE** or **LESSOR**, under any circumstances and for any reason.

3. **RENT**. **LESSEE** hereby covenants and agrees to pay **LESSOR**, without demand, at its office or such other place as **LESSOR** may from time to time designate, as rent for the **PREMISES** during the continuance of the Lease, the sum of **ZERO DOLLARS ($- 0 -),** in advance on the first day of each and every calendar month, subject to any adjustments in additional rent pursuant to provisions 6 and 9 set forth herein.

   LESSEE shall pay for its own gas, heat, electrical current, as well as telephone service and cable services.

   LESSOR further agrees to pay **LESSOR** of the sum of **ZERO DOLLARS ($- 0 -)** as a Security Deposit for the faithful performance of the lease, which shall be returned to **LESSEE** upon faithful performance of this lease.

   LESSOR also acknowledges receipt of the sum of **ZERO DOLLARS ($ -0 -)** as a Pet Deposit for the faithful performance of this lease, which shall be returned to **LESSEE** so long as no damage has been caused to the **PREMISES** by such pet.

4. **CONDITION OF PREMISES**. **LESSEE** agrees that it has examined the demised **PREMISES** and that it accepts the same in its present condition; that the said **PREMISE** was in good and satisfactory condition at the time of the **LESSEE'S** taking, and that **LESSOR** has made no representations or promises with respect to the **PREMISES**, or the building of which the

same form a part. Delivery of possession of the **PREMISES** shall be deemed to have occurred when **LESSOR'S** Agent delivers the keys to the **LESSEE** or his Agents on the **PREMISES**.

5. **USE OF PREMISES**. The **LESSEE** shall not occupy or use the demised **PREMISES** in any manner or for any reason other than as part of its Community Livings Skills program teaching the skills necessary for independent living, and shall not assign this lease or underlet or sublease the demised **PREMISES**, or permit any other person, firm or corporation to occupy the demised **PREMISES** or any part thereof, without the written consent of the **LESSOR**. The **LESSEE** shall not, in any event, use or permit the demised **PREMISES** to be used in an unlawful manner or for any illegal purpose or in such a manner as to constitute a nuisance.

6. **ALTERATIONS BY LESSEE**. No alterations, additions or improvements to the demised **PREMISES** shall be made without first having the consent, in writing, of **LESSOR**, provided **LESSEE** shall pay all costs and expenses and charges thereof, shall make such alterations and improvements in accordance with applicable laws and building codes and in a good and workmanlike manner, and **LESSEE** agrees that no mechanic's lien, or other liens or claims in connection with the making of such alterations and improvements shall be filed.

7. **REMOVAL OF IMPROVEMENTS**. Except as otherwise provided, all improvements, by **LESSEE** and paid for by **LESSEE** shall remain the property of **LESSOR** and may be removed only if **LESSEE** shall repair any damage caused by such removal, and the **PREMISES** restored to its original condition at the cost of the **LESSEE**, at the expiration of this lease.

8. **INSURANCE CARRIED BY LESSEE**. **LESSEE** agrees to obtain and maintain in force for the term of this lease, and any renewal or extension thereof, insurance on the **PREMISES** including its contents. **LESSOR** shall be named as an additional insured on the policy and a Certificate of Insurance evidencing the same shall be provided to **LESSOR** prior to **LESSEE'S** use of the **PREMISES.**

9. **PAYMENT OF LESSOR**. Any reasonable amounts paid by **LESSOR** to keep the **PREMISES** in a clean, safe and healthy condition as herein before specified, or in the event of **LESSEE'S** nonperformance hereunder, are hereby agreed and declared to be additional rent and shall be due and payable with the next installment of rent due thereafter under this lease. Provided, however that the **LESSOR** shall notify **LESSEE** prior to expending any amounts under this paragraph and give **LESSEE** a reasonable amount of time, not to exceed thirty (30) days, to correct any deficiencies.

10. **REPAIRS BY LESSOR**. **LESSOR** shall maintain the exterior of the **PREMISES**, including the roof, foundation, structural portion thereof, in good repair, except as may be required thereto by reason of the acts of **LESSEE**.

11. **REPAIRS**. **LESSEE** shall keep the interior of the **PREMISES** in good condition and repair, and perform routine *and, preventative maintenance thereto,* including but not limited to the heating, air conditioning, electrical fixtures, plumbing, sewer system, and interior painting and floor tile, and/or carpeting located in, upon or under the demised **PREMISES**, excepting, however, all repairs made necessary by reason of damage due to fire or other casualty covered by standard fire and extended coverage insurance. Routine and preventative maintenance shall require **LESSOR'S** and/or tradesman's inspection at least once per year of all items set forth in this paragraph to ensure that they have been kept in good condition and repair. All repairs needed as a result of such inspection shall be performed by the **LESSEE**. However, **LESSOR** shall be responsible for the full replacement of any items set forth in this paragraph when deemed no longer repairable, so long as **LESSEE** has complied with all the preventative maintenance and repair requirements set forth in this paragraph.

12. **LIABILITY**. **LESSOR** shall not be liable for any damages occasioned by reason of the construction of the **PREMISES** or for failure to keep the **PREMISES** in repair unless notice of the need for repairs has been given **LESSOR**, and a reasonable time has elapsed and the **LESSOR** has failed to make such repairs. All personal property belonging to the **LESSEE** or to any other person, located in or about the building or the **PREMISES** shall be there at the sole risk of the **LESSEE** or such other person, and neither the **LESSOR** nor the **LESSOR'S** Agents shall be liable.

13. **USE AND CARE OF PREMISES**.

    A. **LESSEE** shall occupy the **PREMISES** in a lawful, reputable manner and will not create a nuisance.

    B. **LESSEE** shall not use or allow the **PREMISES** to be used for any purpose other than as specified herein and shall not permit the **PREMISES** to be used for any unlawful purpose or in any way that will injure the reputation of the building in which the **PREMISES** are situated, nor permit the **PREMISES** to be occupied in whole or in part by any other person.

    C. In the event **LESSEE'S** use of the **PREMISES** is such as to cause an increase in the insurance rates upon the building in which the **PREMISES** are located, **LESSEE** agrees to pay **LESSOR** as

additional rental such premium increase.

D. **LESSEE** shall not sublet said **PREMISES** or any part thereof nor assign this lease, without in each case the written consent of **LESSOR** first, which consent shall not be unreasonably withheld.

E. **LESSEE** shall not permit any transfer by operation of law, of **LESSEE'S** interests in the **PREMISES,** acquired through this lease.

F. All property which may be upon said **PREMISES** during the term hereof, or any renewal thereof, shall be at and upon the sole risk and responsibility of **LESSEE**.

14. **DESTRUCTION OF PREMISES**.

A. If the **PREMISES** shall be destroyed by any cause as to be unfit, in whole or in part, for occupancy and such destruction or injury could reasonably be repaired within six (6) months from the happening of such destruction or injury, then **LESSEE** shall not be entitled to surrender possession of the **PREMISES** nor shall **LESSEE'S** liability to pay rent under this lease cease without the mutual consent of the parties hereto; but in case of any such destruction or injury **LESSOR** shall repair the same with all reasonable speed and shall complete such repairs within six (6) months from the happening of such injury, and if during such period **LESSEE** shall be unable to use all or any portion of the **PREMISES**, a proportionate allowance shall be made to **LESSEE** from the rent corresponding to the time during which and to the portion of the **PREMISES** of which **LESSEE** shall be so deprived of the use on account thereof.

B. If such destruction or injury cannot reasonably be repaired within six (6) months from the happening thereof, **LESSOR** shall notify **LESSEE** within thirty (30) days after the happening of such destruction or injury whether or not **LESSOR** will repair or rebuild. If **LESSOR** elects not to repair or rebuild, this Lease shall be terminated. If **LESSOR** shall elect to repair or rebuild, **LESSOR** shall specify the time within which such repairs or reconstruction will be completed, and **LESSEE** shall have the option, within thirty (30) days after the receipt of such notice, to elect either to terminate this Lease and further liability hereunder or to extend the term of the Lease by a period of time equivalent to the time from the happening of such destruction or injury until the **PREMISES** are restored to their former condition. In the event **LESSEE** elects to extend the term of the Lease, **LESSOR** shall restore the **PREMISES** to their former condition within the time specified in the

notice, and **LESSEE** shall not be liable to pay rent for the period from the time of such destruction or injury until the **PREMISES** are so restored to their former condition.

15. **RIGHTS RESERVED TO LESSOR**. **LESSOR** reserves the following rights:

A. To enter the **PREMISES** at all reasonable times for the making of inspections, repairs, alterations, improvements or additions of or to the **PREMISES** or the building, as **LESSOR** may deem necessary or desirable; for any purpose whatsoever related to the safety, protection, preservation or improvement of the **PREMISES** or of the building or of **LESSOR'S** interest; to enforce and carry out the provisions of this Lease Agreement and for the further purpose of showing the leased **PREMISES** to prospective tenants, purchasers, representatives of lending institutions and prospective tenants for other space in a building owned or contracted by the **LESSOR**.

B. For the purpose of exhibiting said **PREMISES** and putting the usual "For Rent" or "For Sale" notices, which notices shall not be removed, obliterated or hidden by **LESSEE**.

C. **LESSOR** reserves the right upon a thirty (30) day written notice to terminate this lease under any circumstances and for any reason.

16. **VACATION OF PREMISES**. **LESSEE** shall deliver up to and surrender to **LESSOR** possession of the **PREMISES** upon the expiration of the Lease or its termination in any way in as good condition and repair as the same shall be at the commencement of said term (loss by fire and ordinary wear and decay only excepted) and deliver the keys at the office of **LESSOR** or **LESSEE'S** Agents.

17. **RENT DEMAND**. The **LESSEE** agrees that every demand for rent due, whenever and wherever made, shall have the same effect as if made at the time it falls due and at the place of payment or on the **PREMISES**; and after the service or any notice or communication of any suit, or final judgment therein, **LESSOR** may receive and collect the rent due and such collection or receipt shall not operate as a waiver or not affect such notice, suit or judgment.

18. **DEFAULT PROVISION**. If **LESSEE** shall at any time be in default in the payment of rent herein reserved or in the performance of any of the covenants, terms, conditions or provisions of this Lease and **LESSEE** shall fail to remedy such default within fifteen (15) days after receipt of notice thereof from **LESSOR** in the event the default is as to payment of rent, or within thirty (30) days after receipt of notice thereof, if the default

relates to matters other than the payment of rent (but **LESSEE** shall not be deemed in default if **LESSEE** commences to remedy said default other than related to payments of rental within said thirty (30) day period and proceeds therewith with due diligence), **LESSOR** may, by notice to **LESSEE**, terminate this Lease, or without terminating this Lease, enter the **PREMISES** by summary proceedings or otherwise, and in either event, may dispossess **LESSEE**. In the event of such re-entry, **LESSOR** may relet the **PREMISES** and apply the rent therefrom first to the payment of **LESSOR'S** expenses incurred by reason of **LESSEE'S** default and the expenses of reletting and then to the payment of rent and all other sums due from **LESSEE** hereunder, **LESSEE** remaining liable for any deficiency, for loss of rent by a payment at the end of each lease month equal to the difference between **LESSEE'S** rental obligation and the rents actually derived from the **PREMISES** by the **LESSOR** for such month. All remedies herein provided shall be in addition to, and not in substitution for, any remedies otherwise available to **LESSOR**.

19. **LATE CHARGES**. The rental installment, including increases, is due in accordance with the provisions set forth herein above. If said installments are greater than fifteen (15) days past due, the **LESSOR** may charge the **LESSEE** a penalty of fifteen dollars ($15.00) per calendar day for every day that exceeds the fifteen (15) day period. Said penalty, if charged, shall be deducted from any subsequent installments first and the balance of said installments shall be applied to rental payments. This provision shall be applied also to partial installments of rents and or failure to pay any increases in rents after notices thereof, or initial recompense assets for the above.

20. **NOTICES**. Any notice or consent required to be given by or on behalf of either party upon the other shall be in writing and shall be given by mailing such notice or consent by registered or certified mail addressed to the other party at the address herein before specified and or the **PREMISES**, or at such other address as may be specified from time to time in writing delivered to the other party.

21. **WAIVER**. No waiver of any condition of legal right or remedy shall be implied by the failure of **LESSOR** to declare a forfeiture by course of dealing or by LESSOR'S waiver of any other default of **LESSEE'S** hereunder, and no waiver of any condition or covenant shall be valid unless it is in writing signed by **LESSOR**.

22. **LEASE INURES TO BENEFIT OF ASSIGNEES**. This Lease and all the covenants, provisions and conditions herein contained shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns respectively of the parties hereto, provided, however, that no assignment by, from, through or under **LESSEE** in

violation of the provisions hereof shall vest in the assigns any right, title or interests whatever.

23. **QUIET ENJOYMENT**. **LESSOR** hereby covenants and agrees that if **LESSEE** shall perform all the covenants and agreements herein stipulated to be performed on **LESSEE'S** part, **LESSEE** shall at all times during the terms of the Lease hereof have the peaceable and quiet enjoyment and possession of the **PREMISES**.

24. **INTERPRETATION**.

    A. Wherever either the word **"LESSOR"** or **"LESSEE"** is used in this Lease, it shall be considered as meaning **"LESSOR"** or **"LESSEE"** respectively, wherever the context permits or requires, and when the singular and/or neuter pronouns are used herein, the same shall be construed as including all persons and corporations designated respectively as **LESSOR** or **LESSEE** in the heading of this instrument wherever the context requires.

    B. If any clause, sentence, paragraph, or part of this Lease shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Lease, but be confined in its operation to the clause, sentence, paragraph or parts thereof directly involved in the controversy in which such judgment shall have been rendered, and in all other respects said Lease shall continue in full force and effect.

25. **ENTIRE AGREEMENT**. This Lease contains the entire agreement between the parties, and any executory agreement hereafter made shall be ineffective to change, modify, or discharge in whole or in part unless such executory agreement is in writing and signed by the party against whom enforcement of the change modification or discharge is sought.

26. **HEADINGS**. The headings have been inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this Lease or in any way affect this Lease.

27. **COMMISSIONS**. **LESSOR** and **LESSEE** acknowledge that neither is represented by a real estate broker or agent in this transaction, and as such, no fees or commissions are due.

28. **UNIQUE CIRCUMSTANCES PROVISION**.

None at this time.

IN WITNESS WHEREFORE, we have hereunto set our hands on the day and year first above written.

LESSOR:

Bruce G. Rinker, Mayor

President of Council, William Buckholtz

SWORN TO BEFORE ME, and subscribed in my presence this 25 day of February, 2010.

NOTARY

Mary E. Betsa
NOTARY PUBLIC
State of Ohio
My Commission Expires 1/9/11

WITNESSES:

LESSEE:

John L. Folkman
Print Name

Director of Business Services

Print Name

SWORN TO BEFORE ME, and subscribed in my presence this _____ day of _____, 2010.

_____
Notary

APPROVED AS TO FORM:

Joseph W. Diemert, Jr.

Joseph W. Diemert, Jr., Director of Law

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