City of Dublin

Office of the City Manager
5200 Emerald Parkway • Dublin, OH 43017-1090
Phone: 614-410-4400 • Fax: 614-410-4490

Memo

To: Members of Dublin City Council

From: Marsha I. Grigsby, City Manager

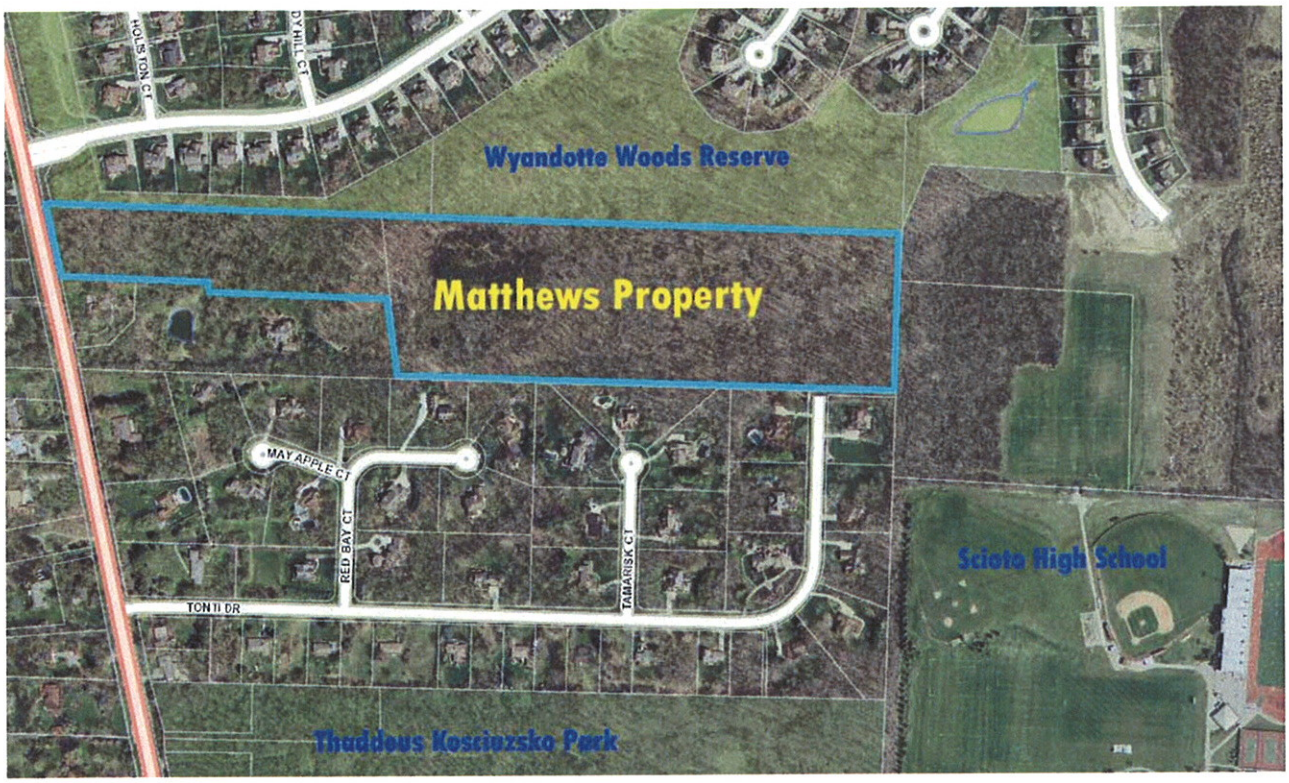
Date: September 20, 2012

Initiated By: Sara G. Ott, Sr. Project Manager

Re: Ordinance 59-12 - Authorizing the City Manager to Execute Necessary Conveyance Documentation to Acquire a 23.469 Acres, more or less, Fee Simple Interest from Charles W. Matthews, Jr.; Kimberly K. Matthews Ross; Diana C. Lowery, Trustee; Dan E. Lowery, Trustee; Kimberly K. Ross; and Diana C. Lowery, and Appropriating Necessary Funds.

Background

Ordinance 59-12 authorizes the purchase of 23.469 acres (parcels 273-008597-00 and 273-008604-00) of land for parkland acquisition. The land is situated on the east side of Riverside Drive south of Wyandotte Woods Boulevard, adjacent to city-owned open space known as Wyandotte Woods Reserve "C".



The terms of the property acquisition include:

- City Council approval of the real estate purchase agreement
- Purchase price of $910,00.00 (approx. $38,775/acre)
- City receiving satisfactory results from an environmental assessment study of the property
- Securing the property fee simple

Washington Township has discussed partnering with the City for this acquisition. Staff will follow up with the Township at an upcoming Trustee meeting regarding this interest.

The City is currently in the process of having a boundary survey of the property completed. The complete property description will be available later this year, prior to closing, and places on file with the Clerk of Council's office.

The purchase will be funded from the Parkland Acquisition Fund, and sufficient balances exist to fund the acquisition.

At this time, there are no development plans for these parcels. Staff will examine the development options, including connectivity with neighborhoods and other public lands, in future years through funding from the Capital Improvement Program.

Recommendation

Staff recommends approval of Ordinance 59-12 at the second reading/public hearing on September 24, 2012.

RECORD OF ORDINANCES

Dayton Legal Blank, Inc. Form No. 30043

Ordinance No. 59-12 Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY CONVEYANCE DOCUMENTATION TO ACQUIRE A 23.469 ACRES, MORE OR LESS, FEE SIMPLE INTEREST FROM CHARLES W. MATTHEWS, JR., KIMBERLY K. MATTHEWS ROSS, DIANA C. LOWERY, TRUSTEE, DAN E. LOWERY, TRUSTEE, KIMBERLY K. ROSS, AND DIANA C. LOWERY, AND APPROPRIATING NECESSARY FUNDS, AS AMENDED.

WHEREAS, the City of Dublin ("City") has been contemplating the acquisition of property for use as public parkland; and

WHEREAS, Charles W. Matthews, Jr., Kimberly K. Matthews Ross, Diana C. Lowery, trustee, Dan E. Lowery, trustee, Kimberly K. Ross, and Diana C. Lowery (collectively "Matthews") own certain real property that is ideal for use as public parkland, and a legal description of parcels Parcel Nos. 273-008597-00 and 273-008604-00 will be on file with the Clerk of Council prior to closing; and

WHEREAS, the City and Matthews participated in discussions for the acquisition of this property and have come to mutually agreeable terms for the acquisition; and

WHEREAS, the City desires to execute necessary conveyance documentation to complete the transaction between the City and Matthews.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, State of Ohio, _____ of the elected members concurring that:

Section 1. The City Manager is hereby authorized to execute all necessary conveyance documentation to acquire a 23.469 acres, more or less, fee simple interest from Matthews.

Section 2. Matthews shall be compensated for the aforementioned property interests in the amount of Nine Hundred Ten Thousand Dollars ($910,000.00).

Section 3. There shall be appropriated from the unappropriated balance of the Parkland Acquisition Fund the amount of $910,000.00 to account 402-0210-780-2510 for the purchase of the aforementioned property.

Section 4. This ordinance shall become effective as of the earliest date permitted by law.

Passed this _____ day of _____, 2012.

_____

Mayor - Presiding Officer

ATTEST:

_____

Clerk of Council

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (hereinafter the "Agreement") is made and entered into on the 29 day of August, 2012 (the "Effective Date") by and between the **City of Dublin**, an Ohio municipal corporation, with offices at 5200 Emerald Parkway, Dublin, Ohio 43017 (hereinafter referred to as "Purchaser") and **Charles W. Matthews, Jr.**, **Kimberly K. Matthews Ross**, **Diana C. Lowery**, **trustee**, **Dan E. Lowery**, **trustee**, **Kimberly K. Ross**, and **Diana C. Lowery**, or assigns, all with a mailing address of 2861 Halstead, Columbus, Ohio 43221 (hereinafter collectively referred to as "Seller").

BACKGROUND INFORMATION

WHEREAS, Seller is the owner of certain tracts of real property situated in the County of Franklin and State of Ohio, such real property being approximately **23.469 acres** and known as tax parcels 273-008597-00 and 273-008604-00, which real property is more fully described in the attached Exhibit "A" (said real property, together with all improvements constructed thereon, and all rights, appurtenances and hereditaments appertaining thereto, shall hereinafter be referred to as the "Premises"); and

WHEREAS, Seller desires to sell the Premises to the Purchaser, and Purchaser desires to purchase the Premises from Seller in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing and the covenants, warranties, terms and conditions hereinafter set forth, Purchaser and Seller (the "Parties") agree as follows:

1. Purchase and Sale of the Premises. Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase and obtain from Seller, subject to the satisfaction or waiver by Purchaser of the conditions precedent hereinafter set forth, the Premises. The total Purchase Price for the Premises shall be **Nine Hundred Ten Thousand and 00/100 Dollars ($910,000.00)** (the "Purchase Price"), payable in cash or by immediately available wired funds at the Closing, subject to prorations, credits, allowances and other adjustments specifically provided for herein. It is the intent of Purchaser to purchase the Premises for preservation of parkland and open space purposes (the "Intended Purpose"), subject to the terms of this Agreement.

2. Conditions Precedent.

(a) Conditions Precedent to Purchaser's Obligation to Close. Purchaser shall not be obligated to close under this Agreement until all of the following conditions are satisfied in the sole and absolute discretion of the Purchaser, any one or all of which may be waived by Purchaser, on or before November 15, 2012 (hereinafter the "Contingency Date"). If any one or any combination or all of the conditions precedent set forth in this Paragraph 2.a. are not timely satisfied in favor of Purchaser, Purchaser shall provide written notice to Seller of same on or before the Contingency Date, and this Agreement shall terminate (unless Purchaser, by written notice delivered to Seller, on or before the Contingency Date, waives all of said unsatisfied

conditions precedent) and thereafter both Parties shall be fully released and relieved from all further liability and obligation hereunder. The conditions precedent are as follows:

i. Purchaser shall approve of the environmental condition of the Premises as disclosed by a report, prepared by a certified environmental engineer selected by Purchaser (the "Environmental Report");

ii. Purchaser shall be satisfied, in its sole judgment, with the physical condition of the Premises;

iii. Purchaser shall determine, in its sole judgment, that the development and/or use of the Premises for Purchaser's Intended Purpose is feasible; and

iv. Purchaser shall receive the approval of the Dublin City Council for all obligations under this Agreement.

i. (b) Conditions Precedent to Seller's Obligations to Close. N/A.

3. Tests and Engineering Studies. For and during the entire period that this Agreement is in effect, Purchaser shall, at its sole cost, have the right through Purchaser's associates, employees and/or contractors and agents to enter upon the Premises and cross any adjacent lands of Seller for access to the Premises for the purpose of surveying, inspecting, making contour surveys, temporary excavations (to be refilled by Purchaser as promptly as the same shall have served their purpose), test borings and other purposes required by Purchaser to enable Purchaser to ascertain whether it is feasible to complete the proposed development of the Premises for the Intended Purpose.

4. Due Diligence. Within 15 days after the mutual execution of this Agreement, Seller shall deliver to Purchaser any of the following documentation, to the extent that such documentation and information is within the possession or reasonable control of Seller or any officer or agent of Seller: (i) copies of any tenant leases with respect to the Premises; (ii) copies of all material agreements with respect to the use or operation of the Premises; (iii) copies of all title policies, title commitments and surveys of the Premises; and (iv) copies of any and all hazardous waste or environmental audits, soil tests, utility studies, water retention (storm sewer) and civil engineering drawings, studies, tests, examinations, reports and other material documentation with respect to the physical and environmental condition of the Premises including but not limited to any orders, correspondence, consents, permits or approvals from any governmental entities or authorities. In the event that Purchaser decides to terminate this Agreement, Seller shall have the right to purchase some or all due diligence studies and tests (e.g., survey, Phase I, etc.) from Seller for the cost of said studies and tests, and no additional monies.

Purchaser agrees, upon conducting the due diligence contemplated herein, to restore the Premises to as nearly the condition, which existed prior to Purchaser's entry onto the property. Purchaser hereby agrees, to the extent permissible under Ohio law to defend, indemnify and hold Seller harmless from and against any and all claims, demands, law suits, losses, liabilities, damages and expenses of every nature and kind (including, without limitation, cleanup costs and attorneys' fees arising by reason of any of the aforesaid or an action against the Seller under this

indemnity) which Seller may sustain at any time as a result of, arising directly or indirectly from, out of or in any way connected with the Purchaser's due diligence or entrance upon the Premises, or by reason of any untruth, breach, misrepresentation or nonfulfillment of any of the covenants, representations, warranties or agreements made by Purchaser in this Agreement or in any documents or agreements delivered in connection with this Agreement or with the closing of the transaction contemplated hereby. Purchaser's obligations under this section shall survive any termination of this Agreement.

5. Evidence of Title.

(a) Title Commitment. Purchaser may obtain a commitment (a "Title Commitment") from a title insurance company licensed to do business in the State of Ohio to issue an ALTA Owner's Title Insurance Policy (Form 6/17/06) in the full amount of the Purchase Price (the "Title Policy"). The cost of the Title Policy shall be split between Purchaser and Seller. The Title Commitment will be certified to the Effective Date and will include copies of all recorded documents evidencing title exceptions raised in Schedule B of the Title Commitment. On or before the date of Closing, the Title Commitment must show in Seller good and marketable title to the Premises, free and clear of the standard printed exceptions contained in Schedule B of said commitment and the Title Policy, and free and clear of all liens, charges, encumbrances and clouds of title, whatsoever, except the following (collectively, the "Permitted Encumbrances"):

(i) Matters created by Purchaser;

(ii) Zoning ordinances, legal highways and public rights-of-way which do not interfere with Purchaser's Intended Purpose of the Premises;

(iii) Real estate taxes which are a lien on the Premises but which are not yet due and payable; and

(iv) Easements and restrictions of record acceptable to Purchaser.

(b) Survey. Purchaser can elect to obtain a survey of the Premises (the "Survey," and together with the Title Commitment, the "Title Evidence"). The cost of the Survey shall be split between Purchaser and Seller, at Closing.

(c) Status of Title; Permitted Encumbrances; Objections. Within thirty (30) days after receipt of the Title Evidence, Purchaser may provide Seller with written objections to the extent that the Title Evidence reveals matters other than the Permitted Encumbrances (the "Objections") which constitute a monetary lien or may interfere with Purchaser's Intended Purpose. Purchaser's failure to make Objections within such time period will constitute a waiver of Purchaser's right to make Objections. To the extent the Objections constitute a monetary lien against the Premises, Seller shall satisfy those Objections at the Closing. For all other Objections, Seller shall have ten (10) days after receipt of written notice of such Objections by Purchaser, to notify Buyer whether Seller will cure the Objections ("Seller's Notification"). Seller shall have no obligation to cure any Objections. In the event Seller elects not to cure the Objections, Buyer may terminate this Agreement by giving written notice of termination to Seller within twenty business (20) days of Seller's Notification. If Seller elects to cure or remove any

Objections, Seller shall have ten (10) days to cure or remove the Objections. In the event the Objections cannot be cured or removed until Closing, Seller shall provide Purchaser with evidence, satisfactory to Purchaser, in its sole discretion, that the Objections will be fully cured and/or released on the date of Closing or that the Title Company will issue satisfactory endorsements to the final Title Policy insuring against the risks associated with same. In the event the Objections are not cured or removed within said ten (10) day period, or in the event Seller cannot provide satisfactory evidence within said ten (10) day period that the Objections will be cured on or before the date of Closing or that satisfactory endorsements to the Title Policy will be issued, Purchaser shall make its election, within five (5) business days after expiration of the ten (10) day period, by written notice to Seller, to either:

(1) Accept title to the Premises, at which point such uncured Objections shall be Permitted Encumbrances hereunder; or

(2) Terminate this Agreement.

Purchaser's failure to make its election within such time period will constitute Purchaser's election to accept title to the Premises, at which point such uncured Objections shall be Permitted Encumbrances hereunder

6. Deed of Conveyance. Seller shall convey to Purchaser, at the time of closing, good and marketable title in fee simple to the Premises by transferable and recordable general warranty deed, signed by all parties necessary or required by the Title Commitment or Purchaser's attorney, free and clear of all defects, mortgages, easements, restrictions, reservations, conditions, agreements, liens and encumbrances, except those excepted in Paragraph 5 hereof. Purchaser shall pay the requisite conveyance fee and/or realty transfer tax required by applicable law.

7. Closing and Possession. Seller and Purchaser agree that the purchase and sale of the Premises shall be closed (the "Closing") upon request by Purchaser within five (5) days after notice by Purchaser to Seller, but not later than thirty (30) days after the Contingency Date. Said Closing shall be held at a time and place in Franklin County, Ohio as shall be selected by Purchaser, and agreed to by Seller. At the Closing, Seller shall deliver the general warranty deed, Purchaser shall deliver the Purchase Price and the Parties shall each deliver to the other such additional and other closing documents reasonably necessary to consummate the transaction contemplated herein. Purchaser shall be entitled to full and exclusive possession of the Premises on and after the Closing.

In addition to the deed described above, at the Closing, Seller shall deliver to Purchaser: (i) a closing statement showing the Purchase Price and all charges or credits to Purchaser or Seller provided for herein, (ii) all consents, affidavits or other documents reasonably and customarily required to issue the Title Policy, (iii) such evidence of authority as Purchaser or the title company issuing the Title Policy reasonably may deem necessary to evidence the authority of Seller to enter into this Agreement and to consummate the transactions contemplated hereby, (iv) an affidavit that Seller is not a non-resident "alien", "foreign corporation", "foreign partnership", "foreign trust", or "foreign estate" within the meaning of the Internal Revenue Code and Regulations thereunder, (v) an assignment and assumption agreement with respect to any tenant leases on the Premises, pursuant to which (A) Seller shall assign all of its interest in

the leases which encumber the Premises (including any security deposits) to Purchaser, and (B) Purchaser shall assume said tenant leases, (vi) an assignment and assumption agreement relating to agreements and contracts pertaining to the Premises that are assignable in accordance with their terms without the consent of any third party and that Purchaser elects to assume the "Executory Contracts"), pursuant to which (A) Seller shall assign all of its interest in the Executory Contracts to Purchaser, and (B) Purchaser shall assume said Executory Contracts.

At the Closing, Purchaser shall deliver to Seller: (i) the Purchase Price, (ii) a closing statement showing the Purchase Price and all charges or credits to Purchaser or Seller provided for herein, (iii) such evidence of authority as Seller or the title company issuing the Title Policy reasonably may deem necessary to evidence the authority of Purchaser to enter into this Agreement and to consummate the transactions contemplated hereby, (iv) an assignment and assumption agreement with respect to any tenant leases on the Premises, pursuant to which (A) Seller shall assign all of its interest in the leases which encumber the Premises (including any security deposits) to Purchaser, and (B) Purchaser shall assume said tenant leases, (iv) an assignment and assumption agreement relating to the Executory Contracts, pursuant to which (A) Seller shall assign all of its interest in the Executory Contracts to Purchaser, and (B) Purchaser shall assume said Executory Contracts.

8. Closing Expenses.

The Seller shall, at the Closing (unless previously paid), pay by credit against the Purchase Price the following:

(a) the cost of all municipal services and utility charges (if any) due through the date of Closing;

(b) the cost to remove any lien or mortgage not assumed by the Purchaser;

(c) One half of the cost of furnishing the title commitment and policy referred to in Paragraph 5 above;

(d) One-half the fee, if any, charged by the title insurance company and/or closing agent for closing the transaction contemplated herein;

(e) One half of the cost of the Survey, if any, referred to in Paragraph 5 above;

(f) One half of the cost of the Environmental Report.

The Purchaser shall, at the Closing (unless previously paid), pay the following:

(a) Recording fees required for recording the general warranty deed;

(b) One half of the cost of furnishing the title commitment and policy referred to in Paragraph 5 hereof;

(c) One-half the fee, if any, charged by the title insurance company and/or closing agent for closing the transaction contemplated herein;

(d) One half of the cost of the Survey, if any, referred to in Paragraph 5 hereof;

(e) One half of the cost of the Environmental Report.

9. Taxes and Assessments. Seller shall pay or credit against the Purchase Price all delinquent real estate taxes, together with penalties and interest thereon, all assessments which are a lien against the Premises as of the date of closing, both current and reassessed and whether due, or to become due and not yet payable, all use recoupment taxes (agricultural or otherwise) for years through the year of closing, if any, and all real estate taxes for years prior to the closing, through the date of closing. The proration of undetermined taxes shall be based on a 365-day year and on the last available tax rate and valuations, giving effect to applicable exemptions, recently voted millage, change in tax rate or valuation, etc., whether or not officially certified. It is the intention of the Parties in making this tax proration to give Purchaser a credit as close in amount as possible to the amount which Purchaser will be required to remit to the County Treasurer for the period of time preceding the date of Closing hereof. Upon making the proration provided for herein, Seller and Purchaser agree that the amount so computed shall be final and shall not be subject to later adjustment. Seller warrants that all assessments now a lien are shown on said treasurer's duplicate, that no improvements have been installed by public authority, the cost of which are to be assessed against the Premises in the future, and that Seller has not been notified orally or in writing of possible future improvements by public authority, any part of the cost of which would or might be assessed against the Premises.

10. Representations and Warranties.

Seller hereby represents and warrants as follows:

(a) Seller has not received any written notice or notices from any municipal, county, state or any other governmental agency or body, of any zoning, fire, health, environmental or building violation, or violation of any laws, ordinances, statutes or regulations relating to pollution or environmental standards, which have not heretofore been corrected;

(b) The execution, delivery and performance of this Agreement, and the consummation of the transaction contemplated hereby, will not result in any breach of, or constitute any default under, or result in the imposition of any lien or encumbrance against, the Premises, under any agreement or other instrument to which Seller is a party or by which Seller or the Premises might be bound;

(c) Seller has no knowledge of any fact or condition which would result in the termination or material limitation of the existing pedestrian and/or vehicular access to the Premises from abutting public roads;

(d) No other person or entity other than Purchaser has or will have any right to

acquire the Premises, or any portion thereof;

(e) The execution, delivery and performance by Seller of this Agreement and the performance by Seller of the transactions contemplated hereunder, and the conveyance and delivery by Seller to Purchaser of possession and title to the Premises have each been duly authorized by such persons or authorities as may be required, and on the date of Closing, Seller shall provide documentation, in form satisfactory to Purchaser, evidencing such authorization;

(f) From the Effective Date through and until the Closing, Seller shall not enter into any easement, lease or other contract pertaining to the Premises and shall not modify or change the condition of the Premises, unless Purchaser has approved of such modification or change; and

(g) Seller is not a "Foreign Person" as that term is defined in the Foreign Investment in Real Property Tax Act.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, SELLER HEREBY EXPRESSLY DISCLAIMS AND NEGATES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE CONDITION OF OR VALUE OF THE PREMISES. PURCHASER IS PURCHASING THE PROPERTY "AS-IS WHERE-IS" AND IS SOLELY RELYING ON ITS OWN DUE DILIGENCE AND INSPECTION OF THE PREMISES.

Purchaser hereby represents and warrants as follows:

(a) That Purchaser's execution and delivery of, and performance under, this Agreement is pursuant to valid authority duly conferred upon Purchaser and the signatory hereto; and the consummation of the transactions contemplated hereby and the compliance by Purchaser with the terms of this Agreement do not and will not conflict with or result in a breach of any of the terms or provisions of any agreement, arrangement, understanding, accord, document, or instrument to which Purchaser is a party or by which Purchaser is bound, or constitute a violation of any law or ordinance to which Purchaser is bound or subject.

11. Survival of Representations and Warranties. The warranties, representations, covenants and agreements set forth in this Agreement shall not be canceled by performance under this Agreement, but shall survive the closing of this transaction and the delivery of the deed of conveyance hereunder. All representations and warranties set forth in Paragraph 10 shall be true and correct as of the date hereof and as of the date of Closing, and at Closing, if requested by Purchaser, Seller shall so certify, in writing, in form reasonably requested by Purchaser.

Seller hereby agrees to defend, indemnify and hold Purchaser harmless from and against any and all claims, demands, law suits, losses, liabilities, damages and expenses of every nature and kind (including, without limitation, cleanup costs and attorneys' fees arising by reason of any of the aforesaid or an action against the Seller under this indemnity) which Purchaser may sustain at any time as a result of, arising directly or indirectly from, out of or in any way connected with the operation, ownership, custody or control of the Premises prior to the Closing by reason of

any untruth, breach, misrepresentation or nonfulfillment of any of the covenants, representations, warranties or agreements made by Seller in this Agreement or in any documents or agreements delivered in connection with this Agreement or with the closing of the transaction contemplated hereby, excepting any such claim arising as a result of Purchaser's actions related to the Premises.

12. Notices. Whenever in this Agreement it shall be required or permitted that notice be given or served by either Party hereto on the other, such notice shall be in writing and shall be deemed served when either delivered in person to the following designated agents for that purpose, or deposited in the United States Mail, by certified or registered mail, postage prepaid, return receipt requested, addressed to the other Party as follows:

If to Seller: Charles W. Matthews, Jr.
2861 Halstead
Columbus, Ohio 43221

With copy to: C. William Klausman
75 E. Gay Street, Ste. 300
Columbus, Ohio 43215

or such other address as Seller may hereinafter designate by written notice to Purchaser. Any notice to be served on Purchaser shall be addressed as follows:

If to Purchaser: Marsha I. Grigsby
City Manager
City of Dublin
5200 Emerald Parkway
Dublin, Ohio 43017

with copy to: Stephen J. Smith
Ice Miller LLP
250 West Street
Columbus Ohio 43215

or such other address as Purchaser may hereinafter designate by written notice to Seller.

13. Entire Agreement.

This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings, and agreements between the parties. This Agreement may be amended or modified only by a writing executed by the parties.

14. Applicable Law; Venue.

This Agreement is governed by and will be construed in accordance with the laws of the State of Ohio (regardless of the laws that might be applicable under principles of conflicts of

law) as to all matters, including, but not limited to, matters of validity, construction, effect, and performance. The parties consent to the exclusive jurisdiction of the courts of the State of Ohio in Franklin County, and the United States District Court for the Southern District of Ohio, and waive any contention that any such court is an improper venue for enforcement of this Agreement.

15. Time of Essence.

Time is of the essence of this Agreement in all respects.

16. Assignment.

This Agreement is binding upon and inure to the benefit of the parties, their respective heirs, legal representatives, successors and assigns. Any assignment of this Agreement will not relieve the assigning party of its obligations under this Agreement. Notwithstanding the foregoing, Sellers plan to form a limited liability company ("LLC") to transfer the Property to and substitute as Seller under this Agreement. Upon the proper formation of the LLC and transfer of the Property to the LLC, the LLC shall assume all the obligations of Seller provided by this Agreement and the Sellers executing this Agreement shall be released.

17. Invalidity.

In the event that any provision of this Agreement is held to be invalid, the same will not affect in any respect whatsoever the validity of the remainder of this Agreement.

18. Waiver.

Any waiver of a right or default under this Agreement must be in writing. Any waiver of a particular default will constitute a waiver of such default only and not of any other default by the nonwaiving party. Any waiver of a specific right or remedy under this Agreement will constitute a waiver of such right or remedy only and not of any other right or remedy of the waiving party.

19. Headings.

The subject headings of the various sections of this Agreement are included for purposes of convenience only and will not affect the construction or interpretation of any of its provisions.

20. Counterparts.

This Agreement may be executed in one or more counterparts all of which will be considered one and the same agreement, binding on all parties, notwithstanding that all parties are not signatories to the same counterpart.

[signatures appear on the following page]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below their respective signatures.

SELLER:

_____

_____

By: _____

Charles W. Matthews, Jr.

Date: Aug. 29, 2012

Kimberly K. Matthews Ross

Kimberly K. Matthews Ross

Date: 8-27, 2012

Diana C. Lowery

Diana C. Lowery, trustee

Date: 8/27/12, 2012

_____

Dan E. Lowery, trustee

Date: 8/27-12, 2012

Kimberly K. Ross

Kimberly K. Ross

Date: 8-27, 2012

Diana C. Lowery

Diana C. Lowery

Date: 8/27/12, 2012

PURCHASER:

CITY OF DUBLIN
an Ohio municipal corporation

Marsha I. Grigsby,
Dublin City Manager

Date: Aug 29, 2012

Approved as to form:

_____

Stephen J. Smith, Law Director

CERTIFICATE OF AVAILABILITY OF FUNDS

I certify that the money required to meet the obligations of Dublin hereunder has hereby been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of this fund, free from an previous obligation or certification as required by Ohio Revised Code §5705.01 to §5705.47.

August 30, 2012
Date

Dublin Finance Director

Attachments:

Exhibit "A": Legal description of [23.469] acre tract