



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 *MIG*

Date: May 16, 2013

Initiated By: Sara Ott, Sr. Project Manager

Re: Ordinance 41-13 – Authorizing the City Manager to Execute Necessary Conveyance Documentation to Acquire 0.765 Acres, More or Less, Fee Simple Interest from Joseph V. and Corrine Burger

Background

The City of Dublin ("City") has future plans to widen and improve Avery Road ("Project"). Based on the Preliminary Alignment Study dated November 22, 1996, the future alignment of the widened Avery Road will require the City to acquire the property at 5525 Avery Road ("Property"). Mr. Joseph Burger and his wife Corrine Burger, own the Property and contacted the City expressing their desire for the City to purchase the Property due to the anticipated Project.

The acquisition of this Property requires the purchase of a fee simple interest in the 0.765 acre parcel, more or less, located at 5525 Avery Road, Dublin, Franklin County, Ohio (the "Property") from Mr. and Mrs. Burger, which they have agreed to sell to the City at the appraised value of \$84,400.00. The complete terms of the agreement are listed in the attached Real Estate Purchase Agreement.

The widening project is programmed in the Capital Improvement Program for design in 2014. Construction timing has not been determined.

Recommendation

Ordinance 41-13 authorizes the City Manager to execute all necessary conveyance documentation to formally acquire the necessary property interests described above. Staff recommends approval of Ordinance 41-13 at the second reading/public hearing on June 10, 2013 as obtaining the property interests is necessary for the furtherance of this project.

RECORD OF ORDINANCES

Ordinance No. 41-13

Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY CONVEYANCE DOCUMENTATION TO ACQUIRE 0.765 ACRES, MORE OR LESS, FEE SIMPLE INTEREST FROM JOSEPH V. AND CORRINE BURGER

WHEREAS, the City of Dublin (the "City") plans to widen Avery Road, which necessitates the acquisition of property from Joseph V. and Corrine Burger ("Grantor") with an address of 5525 Avery Road; and

WHEREAS, said project requires that the City obtain certain property interests within Franklin County Parcel No. 274-000072 owned by Joseph V. and Corrine Burger, described and depicted in the attached Exhibits "A" and "B," attached hereto and incorporated herein; and

WHEREAS, the City and the Grantor participated in good faith discussions and have come to mutually agreeable terms for the acquisition of the property interests for the sum of Eighty Four Thousand and Four Hundred Dollars (\$84,400.00); and

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

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 an approximate 0.765 acres, more or less fee simple interest from Joseph V. and Corrine Burger, for the sum of Eighty Four Thousand and Four Hundred Dollars (\$84,400.00), said property interests located within Franklin County Parcel No. 274-000072, and as more fully described and depicted in the attached Exhibits "A" and "B."

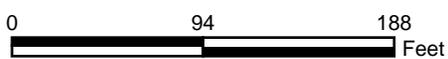
Section 2. This Ordinance shall take effect and be in force from and after the earliest date permitted by law.

Passed this _____ day of _____, 2013

Mayor - Presiding Officer

ATTEST:

Clerk of Council



Avery Road Land Purchases
Pink = City of Dublin
Blue = Burger Property

SURVIVORSHIP DEED
(R17 Surviv 520 17 SR 4493)

Instr: 200310240342051 10/24/2003
Pages: 1 P. 328 00 2:13PM
Robert G. Montgomery T20030128198
Franklin County Recorder BREVORTHEES

**SURVIVORSHIP DEED*
WARRANTY**

ESTELLE M. ALEXANDER of Franklin County, Ohio, for valuable consideration paid, grant(s) with general warranty covenants, to JOSEPH V. BURGER AND CORRINE BURGER husband and wife for their joint lives, remainder to the survivor of them, whose tax-mailing address is, *7194 Abbey Marcell, Dublin, Ohio 43017*

the following REAL PROPERTY:

Situated in the State of Ohio, County of Franklin and in the Township of Washington (and being a part of Virginia Military Survey No. 3004)

From the Point of intersection of the centerlines of Avery Road and Rings Road, said point being the southeast corner of Clarence E. and Wanda L. Fulscher 3.784 acre tract (Deed 2564, page 184), proceed N. 8 degrees 41 feet West along the centerline of said Avery Road a distance of 357.65 feet to a cement nail at the point of beginning; thence S. 81 degrees 12 feet West a distance of 177.36 feet to an iron pin (passing over an iron pin at 30.00 feet); thence N. 8 degrees 14 feet West a distance of 79.63 feet to an iron pin; thence S. 81 degrees 45 feet West a distance of 100.00 feet to an iron pin; thence North 8 degrees 14 feet West a distance of 69.42 feet to an iron pin; thence North 81 degrees 12 feet East a distance 275.95 feet to a cement nail in the centerline of Avery Road (passing over an iron pin at 245.95 feet); thence South 8 degrees 48 feet East along the centerline of said Avery Road a distance of 150.00 feet to the point of beginning, containing 765 Acres, More or less, but subject to all legal rights of way of record.

PROPERTY ADDRESS: 5525 Avery Road, Dublin, Ohio 43016
PARCEL NUMBER: 274-000072

011FF ALLOC (274) 72
DESCRIPTIVE VERIFICATION
DEAN C. [unclear]
BY: T.G.
DATE: 10/24/03

SUBJECT TO RESERVATIONS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF RECORD IF ANY AND TAXES AND ASSESSMENTS HEREAFTER DUE AND PAYABLE.

Prior Instrument Reference - Insatrumment Number 200106270145758 of the Deed of Record of Franklin County, Ohio

Richard A. Alexander, husband of the Grantor, releases all rights of dower therein.

Executed this 20th day of October, 2003.

Estelle M. Alexander
Estelle M. Alexander
Richard A. Alexander
Richard A. Alexander

STATE OF ~~OHIO~~ *Oregon*
COUNTY OF ~~FRANKLIN~~ *Washington*

BE IT REMEMBERED, That on this 20th day of October, 2003, before me, the subscriber, a Notary Public in and for said State, personally came ESTELLE M. ALEXANDER, Married AND RICHARD A. ALEXANDER, her husband the Grantor(s) in the foregoing instrument, and acknowledged the signing thereof to be their voluntary act and deed.

IN TESTIMONY THEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Francine Markey
Francine Markey - (Notary Public)
Notary Public-State of ~~Ohio~~ *Oregon*
My Commission Expires *Sept. 6 2007*



NORTHWEST TITLE
5055 Barker Road
COLUMBUS, OHIO 43220
(614) 451-6313

This instrument was prepared by: James Scott Stevenson
Attorney at Law

TRANSFERRED

FILE #03-006980R
The Notary Public Seal Renewal Code

Notary Seal
OCT 24 2003
JACQUES B. STA
401130R
FRANKLIN COUNTY, OHIO

27205
CONVEYANCE TAX
65.00
JOSEPH W. TESTA
FRANKLIN COUNTY AUDITOR

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (hereinafter the "Agreement") is made and entered into on the ___ day of _____, 2013 (the "Effective Date") by and between the City of Dublin, Ohio, an Ohio municipal corporation ("Purchaser"), having an office at 5200 Emerald Parkway, Dublin, Ohio 43017-1006, and Joseph V. and Corrine Burger ("Sellers"), with an address of 5525 Avery Road, Dublin, Ohio 43016.

BACKGROUND INFORMATION

WHEREAS, Sellers are the owners of a certain tract of real property situated in the County of Franklin and State of Ohio, such real property being approximately **0.765 acres** and known as tax parcel 274-000072-00, 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 Sellers 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 Sellers (the "Parties") agree as follows:

1. Purchase and Sale of the Premises. Sellers hereby agree to sell and convey to Purchaser, and Purchaser hereby agrees to purchase and obtain from Sellers, 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 **Eighty Four Thousand Four Hundred and 00/100 Dollars (\$84,400.00)** (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 the widening of Avery Road (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 May 31, 2013 (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 Sellers of same on or before the Contingency Date, and this Agreement shall terminate (unless Purchaser, by written notice delivered to Sellers, 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.

(b) Conditions Precedent to Sellers' Obligation 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 Sellers 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, Sellers 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 Sellers or any officer or agent of Sellers: (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, Sellers shall have the right to purchase some or all due diligence studies and tests (e.g., survey, Phase I, etc.) from Sellers 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.

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 Sellers. 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 Sellers 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 Sellers, at Closing.

(c) Status of Title; Permitted Encumbrances; Objections. Within thirty (30) days after receipt of the Title Evidence, Purchaser may provide Sellers 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, Sellers shall satisfy those Objections at the Closing. For all other Objections, Sellers shall have ten (10) days after receipt of written notice of such Objections by Purchaser, to notify Buyer whether Seller will cure the Objections ("Sellers' Notification"). Sellers shall have no obligation to cure any Objections. In the event Sellers elect not to cure the Objections, Buyer may terminate this Agreement by giving written notice of termination to Sellers within twenty business (20) days of Sellers' Notification. If Sellers elect to cure or remove any Objections, Sellers shall have ten (10) days to cure or remove the Objections. In the event the Objections cannot be cured or removed until Closing, Sellers 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 Sellers 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 Sellers, 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. Sellers 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. Sellers 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 Sellers, 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 Sellers. At the Closing, Sellers 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, Sellers shall deliver to Purchaser: (i) a closing statement showing the Purchase Price and all charges or credits to Purchaser or Sellers 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 Sellers to enter into this Agreement and to consummate the transactions contemplated hereby, (iv) an affidavit that Sellers are not non-resident "aliens", "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) Sellers 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) Sellers 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 Sellers: (i) the Purchase Price, (ii) a closing statement showing the Purchase Price and all charges or credits to Purchaser or Sellers provided for herein, (iii) such evidence of authority as Sellers 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) Sellers 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) Sellers shall assign all of its interest in the Executory Contracts to Purchaser, and (B) Purchaser shall assume said Executory Contracts.

8. Closing Expenses.

The Sellers 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. Sellers 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, Sellers and Purchaser agree that the amount so computed shall be final and shall not be subject to later adjustment. Sellers warrant 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 Sellers 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.

Sellers hereby represent and warrant as follows:

- (a) Sellers have 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 Sellers are a party or by which Sellers or the Premises might be bound;
- (c) Sellers have 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 Sellers of this Agreement and the performance by Sellers of the transactions contemplated hereunder, and the conveyance and delivery by Sellers 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, Sellers shall provide documentation, in form satisfactory to Purchaser, evidencing such authorization;
- (f) From the Effective Date through and until the Closing, Sellers 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) Sellers are not a "Foreign Person" as that term is defined in the Foreign Investment in Real Property Tax Act.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, SELLERS 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, Sellers shall so certify, in writing, in form reasonably requested by Purchaser.

Sellers 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 Sellers 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 Sellers 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: Joseph V. Burger and
Corrine Burger
5525 Avery Rd.
Dublin, Oh 43016

With copy to:

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 Sellers.

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 Sellers 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 Sellers 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 pages]

SELLERS:

PURCHASER:

THE CITY OF DUBLIN, OHIO

By:

Joseph V. Burger
Joseph W. Burger

Marsha I. Grigsby, City Manager

AND

By:

Corrine M. Burger
Corrine Burger

STATE OF OHIO :
: ss.
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this 04 day of _____, 2013, before me, the subscriber, a Notary Public in and for said state, personally appeared Marsha I. Grigsby, City Manager of the City of Dublin, Ohio, an Ohio municipal corporation, the Purchaser in the foregoing Agreement, and acknowledged the signing thereof to be his/her voluntary act and deed for and on behalf of the City of Dublin, Ohio.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

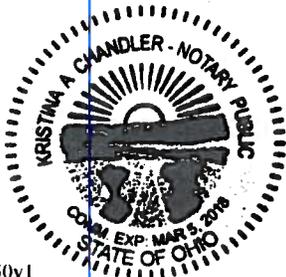
Notary Public

STATE OF OHIO :
: ss.
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this 05 day of May, 2013, before me, the subscriber, a Notary Public in and for said state, personally appeared Joseph V. and Corrine Burger, the Sellers in the foregoing Agreement, and acknowledged the signing thereof to be his/her voluntary act.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Kristina Chanell
Notary Public



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.

Date

Dublin Finance Director

Attachments:

Exhibit "A": Legal description **0.765 acres** and known as tax parcel 274-000072-00