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: June 5, 2014

Initiated By: Terry Foegler, Director of Strategic Initiatives/Special Projects
Dana McDaniel, Director of Development
Philip K. Hartmann, Assistant Law Director

Re: Ordinance 47-14 – Jen-Josh Real Estate Purchase

Background

The City of Dublin ("City") is preparing to construct and relocate Riverside Drive north of Dublin-Granville Road and south of Tuller Road (the "Project"). The City must obtain property interests from various landowners located within the City in order to construct this Project. The Project is included in the City's 2014-2018 Capital Improvements Program.

One of the landowners that the City must obtain property from for the construction of the Project is Jen-Josh LLC ("Jen-Josh"). The property address is 6694 Riverside Drive, Dublin, OH 43017 and includes a single-family dwelling, currently being rented. This acquisition is in addition to the City's purchase of 13.28 acres of right-of-way from Invictus and Tuller Henderson in December of 2012 (AKA Bash Driving Range and Digger and Finch Restaurant) and 5.12 acres of needed right-of-way from Crawford Hoying (AKA Bridge Pointe Shopping Center) in 2013.

This Ordinance is a follow-up to Resolution No. 62-13, establishing the City's intentions to acquire the property via eminent domain, approved by Council on October 14, 2013 and Ordinance 06-13, authorizing the appropriation of this property, approved by Council on January 27, 2014.

Acquisition

The City is acquiring from Jen-Josh a fee simple interest in the property located within Franklin County with a Parcel No. 273-008245, as depicted in the map attached to this memorandum consisting of 0.34 gross acres, more or less, with 0.116 acres more or less consisting of Present Road Occupied, leaving a net 0.224 ± acres, more or less.

Evaluation

The City hired the Robert Weiler Company who originally appraised the property on a sales comparison approach for $120,000. Upon receipt of the Lease on the property, the Robert Weiler Company re-evaluated the property under the income approach, based on the fact the property is a rental property, and valued it at $145,001.

The City has reached an amicable settlement with Jen-Josh. This Ordinance authorizes the settlement of the matter for One Hundred Sixty Thousand Dollars ($160,000.00), subject to Council's approval. The agreed upon amount of $160,000 is 10% above the new appraisal of $145,000 that considers the income-based approach. Staff believes this is a fair and consistent

price, given other agreements in the immediate area and also with consideration to both issues of income to and upgrades made by the owner. In addition, the property currently has a tenant. The lease with the tenant allows the owner (current or City) to terminate the lease. It is staff's intent to terminate the lease as soon as reasonably possible and to demo the property. Staff will work with the current owner and the tenant to allow a reasonable time for the tenant to relocate.

Recommendation

City staff and the Law Department recommend that Council dispense with the public hearing and approve Ordinance No. 47-14 by emergency at the June 9, 2014 Council meeting.

RECORD OF ORDINANCES

Dayton Legal Blank, Inc. Form No. 30043

Ordinance No. 47-14 *Passed* _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE THE REAL ESTATE PURCHASE AGREEMENT AND NECESSARY CONVEYANCE DOCUMENTS TO ACQUIRE A 0.34 ACRES, MORE OR LESS, FEE SIMPLE INTEREST OF WHICH 0.116 ACRES, MORE OR LESS, IS PRESENT ROAD OCCUPIED FROM JEN-JOSH LLC, LOCATED AT 6694 RIVERSIDE DRIVE FOR THE RELOCATION OF RIVERSIDE DRIVE, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Dublin ("Dublin" or "City") will be relocating Riverside Drive to the east of its current location, between Dublin-Granville Road and Tuller Road (The "Project"); and

WHEREAS, said Project requires that the City obtain a 0.34 acres, more or less, fee simple interest within Franklin County from Jen-Josh LLC with the commonly known address of 6694 Riverside Drive, parcel number 273-008245 (the "Parcel"); and

WHEREAS, the City and the Grantor participated in good faith discussions under the threat of eminent domain and have come to mutually agreeable terms for the acquisition of the necessary property interest for the sum of One Hundred Sixty Thousand Dollars ($160,000.00); 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 a 0.34 acre fee simple interest described in the attached Exhibit "A" from Jen-Josh for the sum of One Hundred Sixty Thousand Dollars ($160,000.00), said property interest located within Franklin County Parcel No. 273-008245, and more fully described and depicted in the attached Exhibit "A," Real Estate Purchase Agreement.

Section 2. The Ordinance is declared to be an emergency necessary for the immediate preservation of the public peace, health, safety or welfare, and for the further reason that it is necessary for the relocation of Riverside Drive. The ordinance shall therefore be effective upon passage.

Passed this _____ day of _____ 2014.

_____
Mayor – Presiding Officer

ATTEST:

_____
Clerk of Council

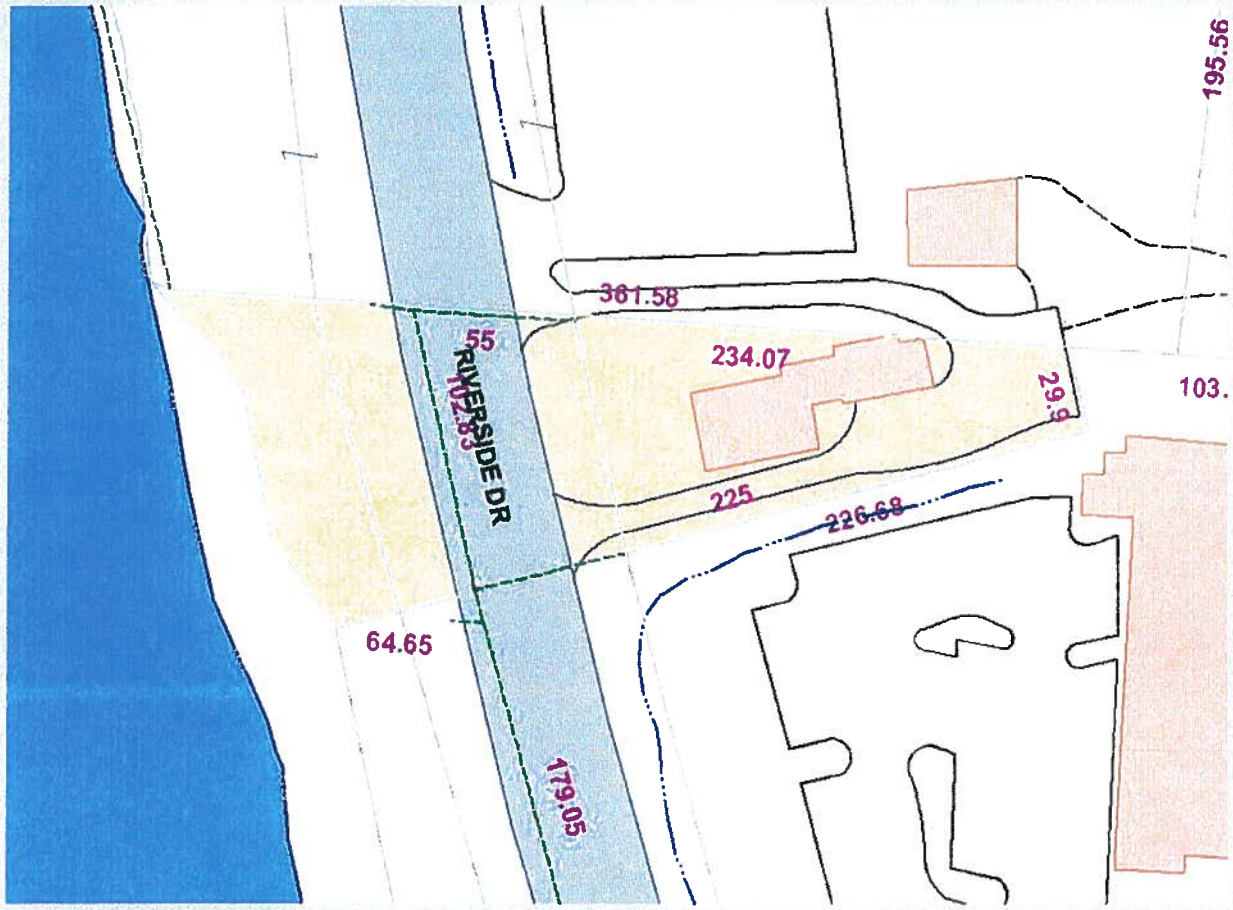
Clarence E. Mingo, II
Franklin County Auditor

Property Report

Generated on 10/09/13 at 01:21:50 PM

Parcel ID	Map Routing No	Card No	Location
273-008245-00	273-O069A -001-00	1	6694 RIVERSIDE DR

GIS



Disclaimer

This drawing is prepared for the real property inventory within this county. It is compiled from recorded deeds, survey plats, and other public records and data. Users of this drawing are notified that the public primary information source should be consulted for verification of the information contained on this drawing. The county and the mapping companies assume no legal responsibilities for the information contained on this drawing. Please notify the Franklin County GIS Division of any discrepancies.

The information on this web site is prepared for the real property inventory within this county. Users of this data are notified that the public primary information source should be consulted for verification of the information contained on this site. The county and vendors assume no legal responsibilities for the information contained on this site. Please notify the Franklin County Auditor's Real Estate Division of any discrepancies.

EXHIBIT "A"

Situated in the County of Franklin, State of Ohio, and in the City of Dublin, and being further described as follows:

Being part of Lot Number Six (6) as set off and assigned to Emma Brown, deceased, as a part of the estate of James Brown as shown in Complete Record 102, page 97, said parcel being situated in the third quarter of the second township, range 19, United States Military Land, and being more particularly described as follows:

Beginning at a point in the center of East Riverside Drive, where the north of Basil J. Brown's 49.81 tract (as shown of the record in Deed Book 460, page 319, Franklin County, Recorder's Office) intersects said center line of Riverside Drive; thence with said north line easterly 234.07 feet to an iron pipe in said line (passing an iron pipe at 50 feet); thence southerly and parallel to said center line of Riverside Drive 29.9 feet to an iron pipe; thence westerly on a line which is 90° deg. to Riverside Drive 225 feet to the center of said drive (passing an iron pipe at 175 feet); thence with the center line of said Riverside Drive northerly 102.83 feet to the place of beginning and containing 34/100 acres, more or less, excepting from the above described tract a strip of ground 8 feet wide off the east end thereof to be used for alley purposes in the future.

0.69-A
DLCB
(273)
008245

Aka: 6694 Riverside Drive
Parcel Number: 273-008245

Description
Verified
Dean Ringle, P.E., P.S.
Franklin County
Engineer
Date: 2/05/02
RET

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (hereinafter the "Agreement") is made and entered into on the ___ day of _____, 2014 (the "Effective Date") by and between the City of Dublin, Ohio, an Ohio municipal corporation (the "City"), having an office at 5200 Emerald Parkway, Dublin, Ohio 43017-1006, Jen-Josh LLC, ("Jen-Josh"), having an office C/o Linda Vrable, 10208 Wellington Blvd, Powell, Ohio 43065. The City and the Jen-Josh may hereinafter be referred to individually as a "Party", or collectively as the "Parties."

BACKGROUND INFORMATION

WHEREAS, Jen-Josh is the owner of a certain tract of real property situated in the County of Franklin and State of Ohio, such real property being approximately **0.340 acres** and known as tax parcels 273-008245-00, 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, Jen-Josh in lieu of defending an eminent domain matter desires to sell the Premises to the City, and the City in lieu of prosecuting an eminent domain matter desires to purchase the Premises from Jen-Josh in accordance with the terms and conditions of this Agreement.

STATEMENT OF AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Jen-Josh covenant, agree and obligate themselves to the foregoing Background Information and as follows:

Section 1. Purchase and Sale of the Premises. Jen-Josh hereby agrees to sell and convey to the City, and the City hereby agrees to purchase and obtain from Jen-Josh, subject to the satisfaction or waiver by the City of the conditions precedent hereinafter set forth, the Premises. The total Purchase Price for the Premises shall be One Hundred Sixty Thousand Dollars **($160,000)** (the "Purchase Price"), which the parties agree is a fair market value, payable in cash or by immediately available wired funds at the Closing, subject to prorations, credits, allowances and other adjustments specifically provided for herein.

Section 2. Conditions Precedent.

(a) Conditions Precedent to the City's Obligation to Close. The City 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 City, any one or all of which may be waived by the City, on or before ninety (90) days after execution (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 the City, the City shall provide written notice to Jen-Josh of same on or before the Contingency Date, and this Agreement shall terminate (unless the City, by written notice delivered to Jen-Josh, 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. The City shall approve of the environmental condition of the Premises as disclosed by a report, prepared by a certified environmental engineer selected by City (the "Environmental Report");

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

iii. The City shall satisfied, in its sole judgment, with a survey of the Premises;

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

v. The City shall receive the approval of the Dublin City Council for all obligations under this Agreement.

(b) Conditions Precedent to Jen-Josh's Obligation to Close. N/A.

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

Section 4. Due Diligence. Within ten (10) days after the mutual execution of this Agreement, Jen-Josh shall deliver to the City any of the following documentation, to the extent that such documentation and information is within the possession or reasonable control of Jen-Josh or any officer or agent of Jen-Josh: (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 the City decides to terminate this Agreement, Jen-Josh shall have the right to purchase some or all due diligence studies and tests (e.g., survey, Phase I, etc.) from the City for the cost of said studies and tests, and no additional monies. The City agrees, upon conducting the due diligence contemplated herein, to restore the Premises to as nearly the condition, which existed prior to the City's entry onto the property.

City agrees, upon conducting the due diligence contemplated herein, to restore the Premises to as nearly the condition, which existed prior to City's entry onto the property. City hereby agrees, to the extent permissible under Ohio law, to defend, indemnify and hold Jen-Josh harmless from and against any and all claims, demands, law suits, losses, liabilities and damages

which Jen-Josh may sustain arising directly fromwith the City's entrance on the Premises prior to closing, or breachof any of the covenants made by City in the Agreement. City's obligations under this section shall survive any termination of this Agreement.

Section 5. Evidence of Title.

(a) Title Commitment. The City 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 City and Jen-Josh. 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 Jen-Josh 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 the City;

(ii) Zoning ordinances, legal highways and public rights-of-way which do not interfere with City'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 the City.

(b) Survey. City can elect, at its sole cost, to obtain a survey of the Premises (the "Survey," and together with the Title Commitment, the "Title Evidence").

(c) Status of Title; Permitted Encumbrances; Objections. Within twenty (20) days after receipt of the Title Evidence, City may provide Jen-Josh 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 City's Intended Purpose. City's failure to make Objections within such time period will constitute a waiver of City's right to make Objections. To the extent the Objections constitute a monetary lien against the Premises, Jen-Josh shall satisfy those Objections at the Closing. For all other Objections, Jen-Josh shall have ten (10) days after receipt of written notice of such Objections by City, to notify City whether Jen-Josh will cure the Objections ("Jen-Josh's Notification"). Jen-Josh shall have no obligation to cure any Objections. In the event Jen-Josh elects not to cure the Objections, City may terminate this Agreement by giving written notice of termination to Jen-Josh within twenty business (20) days of Jen-Josh's Notification. If Jen-Josh elects to cure or remove any Objections, Jen-Josh shall have ten (10) days to cure or remove the Objections. In the event the Objections cannot be cured or removed until Closing, Jen-Josh shall provide City with evidence, satisfactory to the City, 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 Jen-Josh 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, the City shall make its election, within five (5) business days after expiration of the ten (10) day period, by written notice to Jen-Josh, to either:

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

(2) Terminate this Agreement.

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

Section 6. **Deed of Conveyance.** Jen-Josh shall convey to City, 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 City's attorney, free and clear of all defects, mortgages, easements, restrictions, reservations, conditions, agreements, liens and encumbrances, except those excepted in Paragraph 5 hereof. City shall pay the requisite conveyance fee and/or realty transfer tax required by applicable law.

Section 7. **Closing and Possession.** Jen-Josh and the City agree that the purchase and sale of the Premises shall be closed (the "Closing") upon request by the City within five (5) days after notice by City to Jen-Josh, but not later than thirty (30) days after the Contingency Date. Said Closing shall be held at Stewart Title Company, C/O Julie Ross, 259 West Schrock Road, Westerville, Ohio 43081 at a time mutually agreeable to the Parties. At the Closing, Jen-Josh shall deliver the general warranty deed, the City 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. The City 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, Jen-Josh shall deliver to the City: (i) a closing statement showing the Purchase Price and all charges or credits to the City or Jen-Josh 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 the City or the title company issuing the Title Policy reasonably may deem necessary to evidence the authority of Jen-Josh to enter into this Agreement and to consummate the transactions contemplated hereby, (iv) an affidavit that Jen-Josh is 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) Jen-Josh shall assign all of its interest in the leases which encumber the Premises (including any security deposits) to the City, and (B) the City 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 the City elects to assume the "Executory Contracts"), pursuant to which (A) Jen-Josh shall assign all of its interest in the Executory Contracts to the City, and (B) the City shall assume said Executory Contracts.

At the Closing, the City shall deliver to Jen-Josh: (i) the Purchase Price, (ii) a closing statement showing the Purchase Price and all charges or credits to City or Jen-Josh provided for

herein, (iii) such evidence of authority as Jen-Josh or the title company issuing the Title Policy reasonably may deem necessary to evidence the authority of the City 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) Jen-Josh shall assign all of its interest in the leases which encumber the Premises (including any security deposits) to the City, and (B) the City shall assume said tenant leases, (iv) an assignment and assumption agreement relating to the Executory Contracts, pursuant to which (A) Jen-Josh shall assign all of its interest in the Executory Contracts to the City, and (B) the City shall assume said Executory Contracts.

Section 8. **Removal of Personal Property and Fixtures.** On or before Closing Jen-Josh may remove the items listed in Exhibit "B" from the residential structure. Failure to remove any items on the Exhibit "B" prior to closing is a waiver of Jen-Josh's right to remove and any items remaining after closing shall be considered transferred to the City as part of the closing.

Section 9. **Closing Expenses.**

Jen-Josh 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 City;

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

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

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

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

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

(e) The cost of an, if any, an Environmental Report.

Section 10. **Taxes and Assessments.** Jen-Josh 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 the City a credit as close in amount as possible to the amount which the City 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, Jen-Josh and the City agree that the amount so computed shall be final and shall not be subject to later adjustment. Jen-Josh 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 Jen-Josh 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.

Section 11. <u>Representations and Warranties</u>.

Jen-Josh hereby represents and warrants as follows:

(a) Jen-Josh 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 Jen-Josh is a party or by which Jen-Josh or the Premises might be bound;

(c) Jen-Josh 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 the City has or will have any right to acquire the Premises, or any portion thereof;

(e) The execution, delivery and performance by Jen-Josh of this Agreement and the performance by Jen-Josh of the transactions contemplated hereunder, and the conveyance and delivery by Jen-Josh to the City 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, Jen-Josh shall provide documentation, in form satisfactory to the City, evidencing such authorization;

(f) From the Effective Date through and until the Closing, Jen-Josh 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 the City has approved of such modification or change; and

(g) Jen-Josh 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, JEN-JOSH 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. CITY IS PURCHASING THE PROPERTY "AS-IS WHERE-IS" AND IS SOLELY RELYING ON ITS OWN DUE DILIGENCE AND INSPECTION OF THE PREMISES.

Section 12. **The City hereby represents and warrants as follows.** That the City's execution and delivery of, and performance under, this Agreement is pursuant to valid authority duly conferred upon the City and the signatory hereto; and the consummation of the transactions contemplated hereby and the compliance by the City 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 the City is a party or by which the City is bound, or constitute a violation of any law or ordinance to which the City is bound or subject.

Section 13. **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 the City, Jen-Josh shall so certify, in writing, in form reasonably requested by the City.

Jen-Josh hereby agrees to defend, indemnify and hold the City 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 Jen-Josh under this indemnity) which the City 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 Jen-Josh 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 the City's actions related to the Premises.

Section 14. **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 Jen-Josh: Linda Vrable
10208 Wellington Blvd.
Powell, Ohio 43065

With copy to: Jim Muckle
Vrable Healthcare Inc.
3248 W. Henderson Rd.

Columbus, ohio 43220

or such other address as Jen-Josh may hereinafter designate by written notice to City. Any notice to be served on City shall be addressed as follows:

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

with copy to: Philip K. Hartmann, Esq.
Frost Brown Todd LLC
One Columbus, 10 West Broad Street
Columbus, Ohio 43215

or such other address as City may hereinafter designate by written notice to Jen-Josh.

Section 15. **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.

Section 16. **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.

Section 17. **Time of Essence.** Time is of the essence for this Agreement in all respects.

Section 18. **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.

Section 19. **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.

Section 20. **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.

Section 21. **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.

Section 22. **Day for Performance**. Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

Section 23. **Severability.** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 24. **Recitals.** The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

Section 25. **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]

JEN-JOSH:
JEN-JOSH LLC
An Ohio limited liability company

By: _____

Its: _____

CITY:
THE CITY OF DUBLIN, OHIO
An Ohio Municipal Corporation

_____
Marsha I. Grigsby, City Manager

STATE OF OHIO :
: ss.
COUNTY OF FRANKLIN :

BE IT REMEMBERED, that on this ___ 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 City 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 ___ day of _____, 2013, before me, the subscriber, a Notary Public in and for said state, personally appeared , duly authorized signator for Jen-Josh LLC, the Jen-Josh 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.

_____
Notary Public

EXHIBIT A

Clarence E. Mingo, II
Franklin County Auditor

Property Report

Generated on 10/09/13 at 01:21:50 PM

Parcel ID	Map Routing No	Card No	Location
273-008245-00	273-O069A -001-00	1	6694 RIVERSIDE DR

GIS

Disclaimer

This drawing is prepared for the real property inventory within this county. It is compiled from recorded deeds, survey plats, and other public records and data. Users of this drawing are notified that the public primary information source should be consulted for verification of the information contained on this drawing. The county and the mapping companies assume no legal responsibilities for the information contained on this drawing. Please notify the Franklin County GIS Division of any discrepancies.

The information on this web site is prepared for the real property inventory within this county. Users of this data are notified that the public primary information source should be consulted for verification of the information contained on this site. The county and vendors assume no legal responsibilities for the information contained on this site. Please notify the Franklin County Auditor's Real Estate Division of any discrepancies.

EXHIBIT "A"

Situated in the County of Franklin, State of Ohio, and in the City of Dublin, and being further described as follows:

Being part of Lot Number Six (6) as set off and assigned to Emma Brown, deceased, as a part of the estate of James Brown as shown in Complete Record 102, page 97, said parcel being situated in the third quarter of the second township, range 19, United States Military Land, and being more particularly described as follows:

Beginning at a point in the center of East Riverside Drive, where the north of Basil J. Brown's 49.81 tract (as shown of the record in Deed Book 460, page 319, Franklin County, Recorder's Office) intersects said center line of Riverside Drive; thence with said north line easterly 234.07 feet to an iron pipe in said line (passing an iron pipe at 50 feet); thence southerly and parallel to said center line of Riverside Drive 29.9 feet to an iron pipe; thence westerly on a line which is 90° deg. to Riverside Drive 225 feet to the center of said drive (passing an iron pipe at 175 feet); thence with the center line of said Riverside Drive northerly 102.83 feet to the place of beginning and containing 34/100 acres, more or less, excepting from the above described tract a strip of ground 8 feet wide off the east end thereof to be used for alley purposes in the future.

0-69-A
All of
(273)
008245

Aka: 6694 Riverside Drive
Parcel Number: 273-008245

Description
Verified
Dean Ringle, P.E., P.S.
Franklin County
Engineer
Date: 02/05/02
RET

EXHIBIT B

Personal Property and Fixtures for Removal:

1. Large, antique, light fixture in dining room.

2. Refrigerator.

3. Wooden shutters on all windows.

EN00354.Private-00354 4832-5475-1515v2