



To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager
Date: February 23, 2017
Initiated By: Terry D. Foegler, Director of Strategic Initiatives and Special Projects
Angel L. Mumma, Director of Finance
Philip K. Hartman, Assistant Law Director
Re: Update - Ordinances 57-16 and 58-16 relating to the Development of a New Dublin Branch by the Columbus Metropolitan Library

Updated Background

The accompanying November 18, 2016 memorandum to City Council provides the context and background for Ordinances 57-16 and 58-16. Both ordinances relate to agreements needed to implement the redevelopment of the new Dublin Branch of the Columbus Metropolitan Library and had their first readings on November 21, 2016. Ordinance 58-16 relates to the Dublin City School District Real Estate and Transfer of Property Agreement, and was approved by Dublin City Council at the second reading of the ordinance on December 5, 2016. It is our understanding that the Dublin City School District is scheduled to take action on this agreement at its February 27, 2017 Board meeting.

Ordinance 57-16 authorizes the City Manager to execute the Development Agreement with the Columbus Metropolitan Library to enable the development of the new Dublin Branch Library. The basic terms of agreement are as outlined in the attached November 18, 2016 memorandum. The ordinance had a first reading on November 21, 2016, but was postponed at its scheduled second reading/public hearing due to the desire of the Columbus Metropolitan Library to further advance and refine the draft Parking Easement Agreement, which is an Exhibit to the overall Development Agreement. Negotiations on the requested refinements have occurred over the past two months and are reflected in Exhibit C of the Development Agreement.

Council will note that there are several minor clarifying corrections on the amended Ordinance 57-16. The attached redlined version of the Development Agreement reflects several amendments made to that agreement since the first reading of the Ordinance on November 21, 2016. One amendment clarifies a recognition among the parties, as requested by Council, that the final design of the library is subject to the review and approval processes as established within the City's applicable development regulations.

Recommendation

The Administration recommends that City Council hold a second reading/public hearing on Ordinance 57-16 (Amended) at its February 27, 2017 meeting.



To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager
Date: November 30, 2016
Initiated By: Terry D. Foegler, Director of Strategic Initiatives and Special Projects
Re: Ordinance Numbers 57-16 and 58-16

Background

As noted in their introduction at Council's November 21 meeting, Ordinance numbers 57-16 and 58-16 authorize the City Manager to enter into the agreements with the Columbus Metropolitan Library (CML) and the Dublin City School District (DCSD) needed to implement the redevelopment of the new Dublin Branch of the Columbus Metropolitan Library and adjacent public parking garage.

Ordinance 57-16 authorizes the execution of the proposed Development Agreement with the CML that will result in the construction of a new 42,500 square foot library building (over twice the size of the current building), a new four level city-owned parking structure (approximately 500 parking spaces) just west of the new library building, and a new and reconstructed series of roadways that will provide the urban grid for the entire library-parking garage development site.

Ordinance 58-16 authorizes the execution of an agreement with the DCSD that provides the City with a substantial portion of the right-of-way (specifically for the new section of Franklin Street and the reconstructed North Street) required to construct the roadway grid surrounding the library and garage development site. The agreement also terminates the DCSD "restriction of record" on those portions of the existing CML site that will be transferred from CML to the City of Dublin for the roads, green space and parking structure. In exchange for these real estate considerations, the City is making provisions for the DCSD to connect all of its existing facilities except for three school buildings to Dublin's high speed fiber optics system known as DubLink.

The CML Development Agreement: Ordinance 57-16

The City and the CML are primarily finalizing the terms related to the operation and design of the parking garage, as established within the proposed Parking Easement document. CML representatives prefer that the terms of the parking easement (based in part on the final layout and design of the parking structure) be finalized before presenting the agreements to their Board for formal authorization. Therefore, the Administration is requesting that Council postpone action on Ordinance 57-16 until its next meeting, on January 10, 2017. Both the City and the CML Administrations are, however, moving fully forward with their teams on the design and planning for all of their respective facilities in anticipation of achieving final resolution of the few remaining issues in the near future.

The DCSD Real Estate and Transfer of Property Agreement: Ordinance 58-16

The agreement with the DCSD authorized by Ordinance 58-16 also includes provisions that would apply in the unlikely event that the library garage project would not occur. Under such a scenario,

in exchange to the fiber network connections provided to the DCSD, the City would still receive the ROW for the future construction of Franklin Street, north of SR 161 to Rock Cress, as well as the ROW needed to extend the North Street ROW from its current terminus at Darby street, westward to the new Franklin Street. The differential between the cost of the fiber installation and the value of the new roadway ROWs provided by the DCSD would be recovered over a five year period via a reduction in the annual payments made by Dublin to the DCSD pursuant to Dublin City School District Bridge Street District Cooperative Agreement dated April 14, 2014. Therefore, it is totally appropriate and reasonable for Council to move forward with Ordinance 58-16, as it includes provisions for moving forward in tandem with, or separate from, the agreement authorized with the CML in Ordinance 57-16.

Recommendation

The Administration further recommends that City Council postpone the public hearing and action on Ordinance 57-16 until its next regularly scheduled meeting on January 10, 2017. The Administration recommends that City Council hold a public hearing on Ordinance 58-16 and approve this ordinance at its December 5, 2016 Council meeting.



To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager
Date: November 18, 2016
Initiated By: Terry D. Foegler, Director of Strategic Initiatives and Special Projects
Angel L. Mumma, Director of Finance
Philip K. Hartman, Assistant Law Director
Re: Ordinances 57-16 and 58-16 Relating to the Development of a New Dublin Branch Library by the Columbus Metropolitan Library District

Background

Ordinances 57-16 and 58-16 authorize the City Manager to enter into the agreements with the Columbus Metropolitan Library (CML) and the Dublin City School District (DCSD) needed to implement the redevelopment of the new Dublin Branch of the Columbus Metropolitan Library and adjacent public parking garage.

Ordinance 57-16 authorizes the execution of the proposed Development Agreement with the CML that will result in the construction of a new 42,500 square foot library building (over twice the size of the current building), a new four-level City-owned parking structure (approximately 500 parking spaces) just west of the new library building, and a new and reconstructed series of roadways that will provide the urban grid for the entire library-parking garage development site.

Ordinance 58-16 authorizes the execution of an agreement with the DCSD that provides the City with a substantial portion of the right-of-way (specifically for the new section of Franklin Street and the reconstructed North Street) required to construct the roadway grid surrounding the library and garage development site. The agreement also terminates the DCSD "restriction of record" on those portions of the existing CML site that will be transferred from the CML to the City of Dublin. In exchange for these real estate considerations, the City is making provisions for the DCSD to connect all of its existing facilities except for three school buildings to Dublin's high speed fiber optics system known as DubLink.

The CML Development Agreement: Ordinance 57-16

The proposed development Agreement with CML, authorized by Ordinance 57-16, includes several noteworthy provisions. First, the CML commits to invest approximately \$18.5 million to develop the 42,500 square foot library building, \$1,083,000 of which represents its contribution to the new City-owned parking garage and which contribution is based upon the estimated construction cost of 200 surface parking spaces. The CML also agrees to provide, at no cost to the city, the land needed to construct the new roadway grid and parking structure, effectively reducing the size of the CML site from its current 3.47 acres to approximately 1.15 acres. Additionally, the CML agrees to continue the operation of the new branch library facility as a library for a period of at least 20 years.

In return, the City of Dublin agrees to construct, own, operate and maintain:

- the new 500-space parking garage within which the CML would retain an easement for 200 parking spaces (currently programmed within the City's Five Year Capital Improvement Program at \$10 million);
- the roadway grid system, which includes the reconstructed North High Street, a new roadway called Rock Cress Avenue located on the north side of the CML site, a reconstructed North Street located along the southern side of the CML site, a new section of North Franklin Street located along the western edge of the CML site, and the burial of overhead utilities (all currently programmed with the City's Five Year Capital Improvement Program at \$11.34 million).

Other key elements of the agreement relate to the ongoing operations of the parking structure, the intent to use a single construction firm to build the new library, parking garage and the street grid (other than for the North High street reconstruction) in order to capture efficiencies, and the provision of a right of first refusal to each party if either decides to dispose of its building asset at some point in the future.

The DCSD Real Estate and Transfer of Property Agreement: Ordinance 58-16

The proposed agreement with DCSD authorized by Ordinance 58-16 includes provisions for the transfer of approximately 1.35 acres of land owned by the DCSD and located on the extreme eastern edge of its 34.95 acres of Bridge Street property for the purpose of constructing a proposed new northern extension of Franklin Street (in phases) as well as provide the right-of-way for the westward extension of North Street from its current terminus at Darby Street to the proposed North Franklin Street extension.

The proposed northern extension of Franklin Street (from Bridge Street to Rock Cress Boulevard) is planned to occur in two phases, the first being from North Street to Rock Cress Boulevard in association with the new library development, and the second being from Bridge Street to North Street. The second phase of the North Franklin Street extension will occur in the future (not currently programmed in the CIP) and will require the demolition of the DCSD's Bridge Street Academy (BSA) building located within this alignment. The agreement provides that the phase 2 right-of-way for the North Franklin Street extension could be available as soon as June 2019, if needed by the City; however, it also makes provisions for the extended use of the BSA building by the DCSD if the City of Dublin is not intending to perform the phase 2 North Franklin Street extension.

Additionally, the agreement provides for the termination of the DCSD's "restriction of record" for those portions of the current CML property that will be transferred to the City of Dublin as part of the CML-City of Dublin Development Agreement. The restriction of record relates to the original terms under which the DCSD provided the CML with the land at no cost to build the new library. The restriction reserved for the DCSD establishes some rights to receive the land portion of proceeds from a future sale, if the CML site was no longer used as a library.

In exchange for these real estate considerations from the DCSD, the City of Dublin agrees to connect, at the City's cost, certain DCSD's buildings to Dublin's fiber optic network, Dublink, and its 100 gigabit capability. The City will provide connection to all DCSD buildings except Bailey Elementary, Daniel Wright elementary, and Riverside Drive Elementary as these buildings are far removed from the Dublink backbone at this time. However, the City will continue to work with the

DCSD to try to find ways to connect these buildings in the future. The total estimated cost of the connections associated with this agreement is \$800,000, of which \$300,000 will be paid by a State Capital Grant previously awarded to the City.

Summary

The new Dublin branch of the Columbus Metropolitan Library will provide an important 21st Century civic facility located in the heart of the Dublin community. In addition to serving the library, the new garage facility will provide a substantial new supply of public parking to serve our increasingly vibrant Historic District. The new roadways being constructed in association with this project will provide important new connections as contemplated within the City's Thoroughfare Plan and provide more traffic circulation options, better serving the immediate area and the broader Bridge Street District roadway system. Depending on the timeliness of the development review and approval process, the redevelopment of this library could begin later in 2017. The City's financial contributions necessary to implement these agreements are currently programmed within the Five-Year Capital Improvement Program.

Recommendation

The Administration recommends that City Council hold a public hearing on Ordinances 57-16 and 58-16 and approve these ordinances at its December 5, 2016 Council meeting.

RECORD OF ORDINANCES

Ordinance No. 57-16 (Amended)

Passed _____, 20____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT AND OTHER NECESSARY DOCUMENTS WITH THE COLUMBUS METROPOLITAN LIBRARY ("CML") TO FACILITATE THE BUILDING OF A PARKING GARAGE, LIBRARY AND ADJACENT STREETS ON THE CURRENT LIBRARY SITE IN THE HISTORIC DISTRICT.

WHEREAS, CML and the City desire to work cooperatively to help facilitate the redevelopment of a new Dublin branch library (the "Library") by the CML in cooperation with the Dublin City School District; and

WHEREAS, CML holds fee simple title to 3 adjacent parcels of real property (273-000038, 273-004507 and 273-000010) with a combined acreage of 3.47 acres, pursuant to deeds recorded in Volume 3759, Page 134 and Volume 3759, Page 1 of the Franklin County, Ohio Recorder's Office, to that certain real property as depicted on Exhibit "A" to the attached form of Development Agreement (said real property, together with all appurtenances and hereditaments thereto, shall be referred to as the "Library Property"); and

WHEREAS, pursuant to the proposed Development Agreement, CML will convey its interest in portions of the Library Property to the City for the development by the City of (i) a road on the northern portion of the Library Property consisting of 0.63 acres and identified on Exhibit "A" to the attached form of Development Agreement as "Rock Cress", (ii) a buffer between Rock Cress and the adjacent real property located north of the Library Property on a strip of land north of Rock Cress consisting of approximately 0.29 acres and identified on Exhibit "A" to the attached form of Development Agreement as "Green Space", (iii) a new public parking facility on the western portion of the Library Property consisting of 1.25 acres and identified on Exhibit "A" to the attached form of Development Agreement as "Parking Garage", (iv) 0.10 acres for a portion of Franklin Street and identified on Exhibit "A" to the attached form of Development Agreement as "Franklin Street", and (v) 0.05 acres for a portion of North Street and identified on Exhibit "A" to the attached form of Development Agreement as "North Street"; and

WHEREAS, as part of the redevelopment of the Library Property, CML will demolish the existing library building and construct a new library, which shall include approximately 42,500 square feet in a two-story structure located on the remaining Library Property, with frontage on North High Street and North Street, with CML's current budget for the Library and related improvements being approximately \$17,400,000; and

WHEREAS, as part of the redevelopment of the Library Property and pursuant to the proposed Development Agreement, the City will construct a new parking structure (currently estimated at approximately 475 plus spaces, subject to finalization of plans, specifications and budget) on the Garage Property (the "Garage") to serve the new Library as well as the public parking needs of the Dublin Historic District area, with the City's current estimate of the cost of the Garage being approximately \$10,000,000; and

WHEREAS, pursuant to the proposed Development Agreement, CML will make a one-time contribution towards the cost of the Garage the amount of \$1,083,000, which amount is based upon the projected per-space cost of providing surface parking on the Library Property for the number of spaces that would have been required to serve the Library (approximately 200 spaces); and

WHEREAS, pursuant to the Development Agreement, the City agrees to design and construct Rock Cress, Franklin Street (northern portion), and to improve/reconstruct North Street and North High Street at its sole cost, which improvements are estimated to cost \$11.34 Million; and

RECORD OF ORDINANCES

Ordinance No. 57-16 (Amended)

Passed Page 2 of 2, 20

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 documentation, including but not limited to, the Development Agreement in substantially the same form as the one attached hereto, with changes not inconsistent with this Ordinance, not substantially adverse to the City, and which shall be approved by the City Manager and Director of Law. The approval of changes thereto by those officials, and their character as not being substantially adverse to the City, shall be evidenced conclusively by their execution thereof.

Section 2. The Ordinance shall take effect at the earliest date allowed by law.

Passed this _____ day of _____, 2016.

Mayor – Presiding Officer

ATTEST:

Clerk of Council

57-16 (Amended)

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT AND OTHER NECESSARY DOCUMENTS WITH THE COLUMBUS METROPOLITAN LIBRARY (“CML”) TO FACILITATE THE BUILDING OF A PARKING GARAGE, LIBRARY AND ADJACENT STREETS ON THE CURRENT LIBRARY SITE IN THE HISTORIC DISTRICT.

WHEREAS, CML and the City desire to work cooperatively to help facilitate the redevelopment of a new Dublin branch library (the “Library”) by the CML in cooperation with the Dublin City School District; and

WHEREAS, CML holds fee simple title to 3 adjacent parcels of real property (273-000038, 273-004507 and 273-000010) with a combined acreage of 3.47 acres, pursuant to deeds recorded in Volume 3759, Page 134 and Volume 3759, Page 1 of the Franklin County, Ohio Recorder's Office, to that certain real property as depicted on Exhibit “A” to the attached form of Development Agreement (said real property, together with all appurtenances and hereditaments thereto, shall be referred to as the “Library Property”); and

WHEREAS, pursuant to the proposed Development Agreement, CML will convey its interest in portions of the Library Property to the City for the development by the City of (i) a road on the northern portion of the Library Property consisting of 0.63 acres and identified on Exhibit “A” to the attached form of Development Agreement as “Rock Cress”, (ii) a buffer between Rock Cress and the adjacent real property located north of the Library Property on a strip of land north of Rock Cress consisting of approximately 0.29 acres and identified on Exhibit “A” to the attached form of Development Agreement as “Green Space”, (iii) a new public parking facility on the western portion of the Library Property consisting of 1.25 acres and identified on Exhibit “A” to the attached form of Development Agreement as “~~Greenspace~~” “Parking Garage”, (iv) 0.10 acres for a portion of Franklin Street and identified on Exhibit “A” to the attached form of Development Agreement as “Franklin Street”, and (v) 0.05 acres for a portion of North Street and identified on Exhibit “A” to the attached form of Development Agreement as “North Street”; and

WHEREAS, as part of the redevelopment of the Library Property, CML will demolish the existing library building and construct a new library, which shall include approximately 42,500 square feet in a two-story structure located on the remaining Library Property, with frontage on North High Street and North Street, with CML's current budget for the Library and related improvements being approximately \$17,400,000; and

WHEREAS, as part of the redevelopment of the Library Property and pursuant to the proposed Development Agreement, the City will construct a new parking structure (currently estimated at approximately 475 plus spaces, subject to finalization of plans, specifications and budget) on the Garage Property (the “Garage”) to serve the new Library as well as the public parking needs of the Dublin Historic District area, with the City's current estimate of the cost of the Garage being approximately \$10,000,000; and

WHEREAS, pursuant to the proposed Development Agreement, CML will make a one-time contribution towards the cost of the Garage the amount of \$1,083,000, which amount is based upon the projected per-space cost of providing surface parking on the Library Property for the number of spaces that would have been required to serve the Library (approximately 200 spaces); and

WHEREAS, pursuant to the Development Agreement, the City agrees to design and construct Rock Cress, Franklin Street (northern portion), and to improve/reconstruct North Street and North High Street at its sole cost, which improvements are estimated to cost \$11.34 Million; and

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 documentation, including but not limited to, the Development Agreement in substantially the same form as the one attached hereto, with changes not inconsistent with this Ordinance, not substantially adverse to the City, and which shall be approved by the City Manager and Director of Law. The approval of changes thereto by those officials, and their character as not being substantially adverse to the City, shall be evidenced conclusively by their execution thereof.

Section 2. The Ordinance shall take effect at the earliest date allowed by law.

Passed this _____ day of _____, 2016.

Mayor – Presiding Officer

ATTEST:

Clerk of Council

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "*Agreement*") is made and entered into this ____ day of _____, 2017, by and between the CITY OF DUBLIN, OHIO (the "*City*"), a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the "*State*") and its Charter, and THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code ("*CML*" and together with the City, the "*Parties*"), under the circumstances summarized in the following recitals.

RECITALS:

WHEREAS, CML and the City desire to work cooperatively to help facilitate the redevelopment of a new Dublin branch library (the "*Library*") by the Columbus Metropolitan Library (CML) in cooperation with the Dublin City School District ("*DCSD*").

WHEREAS, CML holds fee simple title to 3 adjacent parcels of real property (273-000038, 273-004507 and 273-000010) with a combined acreage of approximately 3.599 acres, pursuant to deeds recorded in Volume 3759, Page 134 and Volume _____, Page _____ of the Franklin County, Ohio Recorder's Office, to that certain real property legally described on Exhibit "A" (said real property, together with all appurtenances and hereditaments thereto, shall be referred to as the "*Library Property*").

WHEREAS, CML will convey its interest in portions of the Library Property to the City for the development by the City of (i) a road on the northern portion of the Library Property consisting of approximately 0.63 acres and identified on Exhibit "A" as "Rock Cress", (ii) a buffer between Rock Cress and the adjacent real property located north of the Library Property on a strip of land north of Rock Cress consisting of approximately 0.29 acres and identified on Exhibit "A" as "Green Space" and (iii) a .10 acres strip of land identified in Exhibit "A" located along the western edge of the Library Property for a portion of the Franklin Street roadway, and (iv) a .05 acres strip of land identified on Exhibit "A" for the reconstruction of North Street, and (v) a new public parking facility on the western portion of the Library Property consisting of approximately 1.25 acres and identified on Exhibit "A" as the "*Garage Property*". The real property identified on Exhibit "A" as "Rock Cress", "Franklin Street", "North Street" and "Green Space" is hereinafter collectively referred to as the "*Road Property*". The Road Property, the Garage Property and the remaining portion of the Library Property (the "*Remaining Library Property*") will be further defined and described in a plat for the Library Property (the "*Plat*").

WHEREAS, CML will demolish the existing library building and construct a new library, which shall include approximately 42,500 square feet in a two story structure located on the Remaining Library Property, with frontage on North High Street and North Street. CML's current budget for the Library and related improvements is approximately \$17,400,000.

WHEREAS, the City will construct a new parking structure (currently estimated at approximately 475 plus spaces, subject to finalization of plans, specifications and budget, together with the approvals as provided herein) on the Garage Property (the "*Garage*") to serve

the new Library, on the terms set forth herein, as well as the public parking needs of the Dublin Historic District area. The City currently estimates that the cost of the Garage is approximately \$10,000,000.

WHEREAS, CML will make a one-time contribution towards the cost of the Garage the amount of \$1,083,000 (the "*CML Garage Contribution*"), which amount is based upon the projected per-space cost of providing surface parking on the Library Property for the number of spaces that would have been required to serve the Library (approximately 200 spaces).

WHEREAS, The City agrees to design and construct Rock Cress, Franklin Street (northern portion), and to improve/reconstruct North Street and North High Street (all as generally depicted in Exhibit "B") (the "*Roads*") at its sole cost, which improvements are estimated to cost \$11.34 Million.

WHEREAS, the City and CML will cooperate to coordinate CML's vacating the existing library, demolition of the existing library, construction of the new Library, the Garage and the Roads to the extent feasible to minimize duplication and interference with construction of those improvements.

STATEMENT OF THE AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to and incorporate in the foregoing Recitals and as follows:

Section 1. CML agrees to Convey Certain Real Property to City.

Upon satisfaction of all CML Contingencies (as defined in Section 3, below), CML agrees to convey to the city by deed with limited warranty covenants, the following real property to the City:

- A. The Garage Property; and
- B. The Road Property.

Prior to any such conveyance, the City shall cause to be prepared the Plat for the Library Property that defines and describes the boundaries of the Garage Property, the Road Property and the Remaining Library Property. The Plat shall be acceptable to CML in all reasonable respects. Additionally, the City shall cause the Plat to be approved by the Franklin County Engineer's Office and any other governmental authorities required to approve such Plat in order to place the Plat of record and legally separate the Garage Property, Road Property and Remaining Library Property and to enable the conveyance of the Garage Property and Road Property as contemplated herein. The Plat and all such approvals shall be completed at the City's sole cost and expense.

In addition, CML agrees to provide such temporary construction easements as may be reasonably needed by the City to accommodate the construction of High Street, the Garage and

Roads, provided such easements do not unduly interfere with the construction of the Library. The City agrees to provide such temporary construction easements as may be reasonably needed by CML to accommodate the construction of the Library, provided such easements do not unduly interfere with the construction of the Garage and the Roads.

Section 2. City Agrees to Design and Construct the Garage and Roads.

A. The City will design and construct the Garage at its sole cost except for the CML Garage Contribution. Once the City commences construction of the Garage, the City shall diligently pursue such construction to completion. The City will substantially complete construction of the Garage and open the Garage for use by CML, subject to Force Majeure, no later than CML's substantial completion of the Library. The City and CML will cooperate to coordinate construction of the Library and the Garage to the extent feasible to minimize duplication and interference with construction of the Garage and the Library. To that end, Council agrees that it is in the best interest of the City to waive competitive bidding for the construction of the Garage and utilize the same construction manager at risk that has been engaged for the Library. Accordingly, the City shall enter into a construction contract or construction manager at risk contract for the construction of the Garage with Turner Construction Co., which is serving as CML's construction manager at risk for the Library, unless otherwise approved by CML. The City will consult with and solicit input from CML on the design of the Garage. The City shall, from time to time as the Garage plans advance through the various stages of design, provide copies of the Garage design to CML for CML's input. CML shall promptly review such designs and provide any comments to the City in writing within a reasonable period after its receipt of the designs. This input may include the architectural compatibility with the exterior of the Library. The final design of the Garage must ultimately be approved by the City's required reviewing body through the City's applicable development review regulations. CML shall have the right to approve the final design of the Garage to be submitted to the City's required reviewing body as such design relates to the location and designation of CML parking spaces, ingress/egress for level one of the Garage, the location of entrances and exits for the Garage face adjacent to the Library, and the location and design of the Pedestrian Walkway (as defined in Exhibit "C") to the Library.

B. The City will encumber fee simple title to the Garage Property with a parking easement in favor of CML in the form attached as Exhibit "C" hereto, unless otherwise approved by CML. Such parking easement shall be recorded immediately after the deed for the Garage Property from CML to the City is recorded.

C. The City agrees to design and construct the Roads at its sole cost. The City will substantially complete construction of the Roads and open the Roads for use by CML and the public, subject to Force Majeure, no later than CML's substantial completion of the Library. The estimated cost of the Roads is \$7.1 Million.

D. The City's obligation to design and construct the Garage and the Roads is subject to completion of the Closing described in Section 4, which Closing is subject to satisfaction or waiver by the City of all of the following contingencies (the "*City Contingencies*"):

1. Confirmation by CML that all CML Contingencies have been satisfied or waived.
2. Final approval of the design and budget for the Garage and Roads by the City.
3. Execution and delivery by the City and Turner Construction Co. (or such other construction company acceptable to the City) of a construction contract for the Garage.
4. Execution and delivery of a construction contract for the Roads by the City and the road contractor(s).
5. Certification by the City's Director of Finance that funds sufficient for the construction of the Garage and the Roads are available and have been appropriated for those purposes.
6. Final approval of the Plat by the City and the Dublin City School District.

Upon request by CML, the City shall confirm in writing from time to time which City Contingencies have and have not been satisfied or waived.

E. At the Closing described in Section 4, the City will encumber the Garage Property with a purchase option in favor of CML in the form attached as Exhibit "D" hereto (the "*Garage Option Agreement*"). The Garage Option Agreement shall provide CML with the first option to purchase the Garage and Garage Property in accordance with its terms.

Section 3. CML to Design and Construct the Library.

A. CML will design and construct an approximately 42,500 square foot, two story library, located on the eastern portion of the Library Property, and with its primary frontages on High Street and North Street (the "*Library*"). CML's current budget for the development of this new Library and all amenities is \$18,500,000, which includes the CML Garage Contribution. CML shall substantially complete construction of the Library, subject to Force Majeure, within 24 months of satisfaction of all CML Contingencies.

B. The design of the new Library must be consistent with and approved according to, the City's applicable development review regulations. Although CML reserves all rights as a political subdivision of the State of Ohio, the design of the new Library must ultimately be approved by the City's required reviewing body through the City's applicable development review regulations.

C. CML's obligation to (i) vacate and demolish the existing library and construct the new Library, (ii) make the CML Garage Contribution, and (iii) convey the Road Property and Garage Property to the City, is subject to completion of the Closing described in Section 4, which Closing is subject to satisfaction or waiver by CML of all of the following contingencies (the "*CML Contingencies*"):

1. Confirmation by the City that all City Contingencies, except for receipt of the CML Garage Contribution, have been satisfied or waived.
2. Confirmation by CML that budget for the Library and final design for the Library as approved by the City pursuant to the City's development review regulations are satisfactory to CML.
3. Final approval of the proposed new Library by all governmental authorities with jurisdiction over the Library Property (including CML's obtaining all approvals, permits (including building permits), and all other governmental consents or approvals for the development and construction of the new Library).
4. Certification by CML's fiscal officer that funds sufficient for the construction of the Library and making the CML Garage Contribution are available and have been appropriated for those purposes.
5. Final approval of the Plat by CML.
6. Confirmation by CML that final design of the Garage and the layout of the Garage Property by CML as approved by the City pursuant to the City's development review regulations are satisfactory to CML.
7. Confirmation by the City that the Remaining Library Property has been rezoned to a classification approved by CML.

Upon request by the City, CML shall confirm in writing from time to time which CML Contingencies have and have not been satisfied or waived.

D. At the Closing described in Section 4, CML will encumber the Remaining Library Property with a purchase option in favor of the City in the form attached as Exhibit "E" hereto (the "*Remaining Library Property Option Agreement*"). The Remaining Library Property Option Agreement shall provide the City with the first option to purchase the Library and Remaining Library Property in accordance with its terms, subject to any rights of DCSD.

Section 4. Closing. On a mutually agreeable date, not later than 30 days after the satisfaction or waiver of both the CML Contingencies and the City Contingencies (the "*Closing Date*"), CML and the City shall deposit into escrow with a mutually acceptable escrow agent (the "*Escrow Agent*") all of their respective Escrow Deliveries (as hereinafter defined).

A. On or before the Closing Date, CML shall deliver to the Escrow Agent (i) the CML Garage Contribution, (ii) executed limited warranty deed or deeds conveying the Road Property and the Garage Property to the City, (iii) a counterpart of the parking easement agreement in the form of Exhibit "C", executed by CML, (iv) a counterpart of the Remaining Library Property Option Agreement, executed by CML, and (v) a counterpart of the final Plat, executed by CML (collectively, the "*CML Escrow Deliveries*").

B. On or before the Closing Date, the City shall deliver to the Escrow Agent (i) a counterpart of the parking easement agreement in the form of Exhibit "C", executed by the City, (ii) a counterpart of the final Plat, executed by the Dublin City School District, and (iii) the Garage Option Agreement, executed by the City (collectively, the "*City Escrow Deliveries*"). The CML Escrow Deliveries and the City Escrow Deliveries are collectively referred to herein as the "*Escrow Deliveries*."

C. On the Closing Date, Escrow Agent shall (i) record the Plat and the limited warranty deed(s) conveying title to the Road Property and the Garage Property to the City in the Franklin County Recorder's Office, (ii) immediately after such Plat and deeds are recorded, record in the Franklin County Recorder's Office the fully executed (a) parking easement agreement, (b) Remaining Library Property Option Agreement, and (c) Garage Option Agreement, and (iii) deliver the CML Garage Contribution to the City.

D. Notwithstanding the conveyance of the Road Property and the Garage Property by CML to the City, CML shall be permitted to remain in possession of the entire Library Property until such time as Turner Construction Co. (or such other construction management company acceptable to the City and CML) is ready and willing to commence demolition of the existing library building and commence construction of the Garage. The City and CML agree to coordinate their respective projects on the Library Property with Turner Construction Co. (or such other construction management company acceptable to the City and CML) to facilitate CML's use of the Library Property prior to, during and after demolition of the existing library building, construction of the new Library and construction of the Garage and Roads.

Section 5. Miscellaneous.

A. Assignment. This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

B. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

C. Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

D. 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. Time is of the essence of this Agreement.

E. Administrative Actions. The City represents and warrants to CML that, (i) to the extent permitted by law, and except as otherwise provided in this Agreement, all actions taken or permitted to be taken by the City under or in furtherance of this Agreement may be taken by the City Manager and will not require legislative action of a City Council beyond the legislative

actions authorizing this Agreement, and (ii) the City Manager, on behalf of the City, is authorized to make all approvals and consents that are contemplated by this Agreement, without the separate approval by the City Council, including reviews, approvals, and consents (including but not limited to, such actions with respect to the City Contingencies) and any and all such other approvals contemplated herein. All actions, approvals, and consents of City required under this Agreement must be given in writing (which may include e-mail) in order to be effective.

CML represents and warrants to the City that (a) to the extent permitted by law, and except as otherwise provided in this Agreement, all actions taken or to be taken by CML under this Agreement may be taken by Patrick Losinski, Chief Executive Officer of CML, and will not require approval by the CML Board of Trustees beyond the approval authorizing this Agreement., and (b) Patrick Losinski, on behalf of CML, is authorized to make all approvals and consents that are provided for in this Agreement, without the separate approval by the CML Board of Trustees, including reviews, approvals, and consents (including but not limited to, such actions with respect to the CML Contingencies) and any and all such other approvals contemplated herein. All actions, approvals, and consents of CML required under this Agreement must be given in writing (which may include e-mail) in order to be effective.

F. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties. This Agreement does not and may not be construed to create a partnership or joint venture between or among any of the Parties.

G. Events of Default and Remedies; Force Majeure. Except as otherwise provided in this Agreement, in the event of any breach of this Agreement, or any of its terms or conditions, by any Party hereto, such breaching Party shall, upon written notice from any non-breaching Party, proceed immediately to cure or remedy such breach. In the event such breach is of such nature that it cannot be cured or remedied within a thirty (30) day period, then in such event the breaching Party shall promptly commence its actions to cure or remedy said breach and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the breach shall not be cured or remedied within a reasonable time thereafter, then the non-breaching Party may declare the breaching Party to be in default of this Agreement upon written notice to the breaching Party. After delivering such default notice, breaching Party shall be in default under this Agreement and the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to compel the defaulting Party to cure and remedy such default or breach (which remedies shall include, but are not limited to, specific performance).

To the extent that an obligation of a Party is subject to Force Majeure as provided herein, if a Force Majeure (as such term is defined below) event causes the failure, that Party shall receive an additional period of time as is reasonably necessary to perform or observe the obligation in light of the event if it notifies the other of the potential event and the extent of the delay promptly after becoming aware of the event. As used herein, "*Force Majeure*" means the following: acts of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or

any civil or military authority; insurrections; nuclear accidents; fires; restraint of government and people; explosions; and, as they relate to those particular improvements, force majeure acts or conditions claimed by the applicable contractor under the construction contract for the Library, Roads, or Garage.

H. Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

I. Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or CML other than in his or her official capacity, and neither the members of the legislative body of the City or the Board of Trustees of CML, nor any City or CML official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City and CML contained in this Agreement. Any obligation requiring the expenditure of money shall be enforceable only to the extent that sufficient money has been appropriated by the legislative body, or the board of trustees, as applicable, of the obligated party for that purpose.

J. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and CML, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio. This Agreement shall not be construed more strictly against one Party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

K. Legal Authority. The Parties respectively represent and covenant that each is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. The Parties further respectively represent and covenant that this Agreement has, by proper action, been duly authorized, executed and delivered by the Parties and all steps necessary to be taken by the Parties have been taken to constitute this Agreement, and the covenants and agreements of the Parties contemplated herein, as a valid and binding obligation of the Parties, enforceable in accordance with its terms.

L. Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt

requested, addressed to the other Party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this Agreement, notices shall be addressed to:

- (i) the City at: City of Dublin, Ohio
5800 Shier Rings Road
Dublin, Ohio 43016-7295
Attention: Economic Development Director

- (ii) the CML at: Columbus Metropolitan Library
96 S. Grant Avenue
Columbus, Ohio 43215
Attention: CFO

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

M. No Waiver. No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

N. 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.

O. 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.

P. Survival. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement. The respective rights and obligations of the parties shall survive the Closing of the transactions contemplated in this Agreement.

Q. Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the City and the CML have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

CITY OF DUBLIN, OHIO

By: _____

Printed: _____ Dana L. McDaniel _____

Title: _____ City Manager _____

Approved as to Form:

By: _____

Printed: _____ Jennifer Readler _____

Title: _____ Director of Law _____

**THE BOARD OF TRUSTEES OF THE COLUMBUS
METROPOLITAN LIBRARY**

By: _____

Printed: _____ Paula L. Miller _____

Title: _____ Chief Financial Officer / Fiscal Officer _____

EXHIBIT A

DEPICTION OF PROPERTY

EXHIBIT B

DEPICTION OF ROADS

EXHIBIT C

FORM OF EASEMENT AGREEMENT

[TO BE ATTACHED]

EXHIBIT D

FORM OF PURCHASE OPTION AGREEMENT – GARAGE PROPERTY

[TO BE ATTACHED]

EXHIBIT E

**FORM OF PURCHASE OPTION AGREEMENT – REMAINING LIBRARY
PROPERTY**

[TO BE ATTACHED]

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "*Agreement*") is made and entered into this ____ day of _____, ~~2016~~2017, by and between the CITY OF DUBLIN, OHIO (the "*City*"), a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the "*State*") and its Charter, and THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code ("*CML*" and together with the City, the "*Parties*"), under the circumstances summarized in the following recitals.

RECITALS:

WHEREAS, CML and the City desire to work cooperatively to help facilitate the redevelopment of a new Dublin branch library (the "*Library*") by the Columbus Metropolitan Library (CML) in cooperation with the Dublin City School District ("*DCSD*").

WHEREAS, CML holds fee simple title to 3 adjacent parcels of real property (273-000038, 273-004507 and 273-000010) with a combined acreage of approximately 3.599 acres, pursuant to deeds recorded in Volume 3759, Page 134 and Volume _____, Page _____ of the Franklin County, Ohio Recorder's Office, to that certain real property legally described on Exhibit "A" (said real property, together with all appurtenances and hereditaments thereto, shall be referred to as the "*Library Property*").

WHEREAS, CML will convey its interest in portions of the Library Property to the City for the development by the City of (i) a road on the northern portion of the Library Property consisting of approximately 0.63 acres and identified on Exhibit "A" as "Rock Cress", (ii) a buffer between Rock Cress and the adjacent real property located north of the Library Property on a strip of land north of Rock Cress consisting of approximately 0.29 acres and identified on Exhibit "A" as "Green Space" and (iii) a .10 acres strip of land identified in Exhibit "A" located along the western edge of the Library Property for a portion of the Franklin Street roadway, and (iv) a .05 acres strip of land identified on Exhibit "A" for the reconstruction of North Street, and (v) a new public parking facility on the western portion of the Library Property consisting of approximately 1.25 acres and identified on Exhibit "A" as the "*Garage Property*". The real property identified on Exhibit "A" as "Rock Cress", "Franklin Street", "North Street" and "Green Space" is hereinafter collectively referred to as the "*Road Property*". The Road Property, the Garage Property and the remaining portion of the Library Property (the "*Remaining Library Property*") will be further defined and described in a plat for the Library Property (the "*Plat*").

WHEREAS, CML will demolish the existing library building and construct a new library, which shall include approximately 42,500 square feet in a two story structure located on the Remaining Library Property, with frontage on North High Street and North Street. CML's current budget for the Library and related improvements is approximately \$17,400,000.

WHEREAS, the City will construct a new parking structure (currently estimated at approximately 475 plus spaces, subject to finalization of plans, specifications and budget, together with the approvals as provided herein) on the Garage Property (the "*Garage*") to serve

the new Library, on the terms set forth herein, as well as the public parking needs of the Dublin Historic District area. The City currently estimates that the cost of the Garage is approximately \$10,000,000.

WHEREAS, CML will make a one-time contribution towards the cost of the Garage the amount of \$1,083,000 (the "*CML Garage Contribution*"), which amount is based upon the projected per-space cost of providing surface parking on the Library Property for the number of spaces that would have been required to serve the Library (approximately 200 spaces).

WHEREAS, The City agrees to design and construct Rock Cress, Franklin Street (northern portion), and to improve/reconstruct North Street and North High Street (all as generally depicted in Exhibit "B") (the "*Roads*") at its sole cost, which improvements are estimated to cost \$11.34 Million.

WHEREAS, the City and CML will cooperate to coordinate CML's vacating the existing library, demolition of the existing library, construction of the new Library, the Garage and the Roads to the extent feasible to minimize duplication and interference with construction of those improvements.

STATEMENT OF THE AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to and incorporate in the foregoing Recitals and as follows:

Section 1. CML agrees to Convey Certain Real Property to City.

Upon satisfaction of all CML Contingencies (as defined in Section 3, below), CML agrees to convey to the city by deed with limited warranty covenants, the following real property to the City:

- A. The Garage Property; and
- B. The Road Property.

Prior to any such conveyance, the City shall cause to be prepared the Plat for the Library Property that defines and describes the boundaries of the Garage Property, the Road Property and the Remaining Library Property. The Plat shall be acceptable to CML in all reasonable respects. Additionally, the City shall cause the Plat to be approved by the Franklin County Engineer's Office and any other governmental authorities required to approve such Plat in order to place the Plat of record and legally separate the Garage Property, Road Property and Remaining Library Property and to enable the conveyance of the Garage Property and Road Property as contemplated herein. The Plat and all such approvals shall be completed at the City's sole cost and expense.

In addition, CML agrees to provide such temporary construction easements as may be reasonably needed by the City to accommodate the construction of High Street, the Garage and

Roads, provided such easements do not unduly interfere with the construction of the Library. The City agrees to provide such temporary construction easements as may be reasonably needed by CML to accommodate the construction of the Library, provided such easements do not unduly interfere with the construction of the Garage and the Roads.

Section 2. City Agrees to Design and Construct the Garage and Roads.

A. The City will design and construct the Garage at its sole cost except for the CML Garage Contribution. Once the City commences construction of the Garage, the City shall diligently pursue such construction to completion. The City will substantially complete construction of the Garage and open the Garage for use by CML, subject to Force Majeure, no later than CML's substantial completion of the Library. The City and CML will cooperate to coordinate construction of the Library and the Garage to the extent feasible to minimize duplication and interference with construction of the Garage and the Library. ~~The~~To that end, Council agrees that it is in the best interest of the City to waive competitive bidding for the construction of the Garage and utilize the same construction manager at risk that has been engaged for the Library. Accordingly, the City shall enter into a construction contract or construction manager at risk contract for the construction of the Garage with Turner Construction Co., which is serving as CML's construction manager at risk for the Library, unless otherwise approved by CML. The City will consult with and solicit input from CML on the design of the Garage. The City shall, from time to time as the Garage plans advance through the various stages of design, provide copies of the Garage design to CML for CML's ~~review and comment~~input. CML shall promptly review such designs and provide any comments to the City in writing within a reasonable period after its receipt of the designs. ~~The parties agree that the City shall obtain CML's written approval, which approval shall not be unreasonably withheld, to the exterior design of the Garage, including~~This input may include the architectural compatibility with the exterior of the Library. ~~The final design of the Garage must ultimately be approved by the City's required reviewing body through the City's applicable development review regulations. CML shall have the right to approve the final design of the Garage, to be submitted to the City's required reviewing body as such design relates to the location and designation of CML parking spaces, ingress/egress~~to for level one of the CML parking spaces~~Garage, the location of entrances and exits for the Garage face adjacent to the Garage Library, and the location and design of the area where the Pedestrian Walkway (as defined in Exhibit "C") will connect with~~to the Garage Library.

B. The City will encumber fee simple title to the Garage Property with a parking easement in favor of CML in the form attached as Exhibit "C" hereto, unless otherwise approved by CML. Such parking easement shall be recorded immediately after the deed for the Garage Property from CML to the City is recorded.

C. The City agrees to design and construct the Roads at its sole cost. The City will substantially complete construction of the Roads and open the Roads for use by CML and the public, subject to Force Majeure, no later than CML's substantial completion of the Library. The estimated cost of the Roads is \$7.1 Million.

D. The City's obligation to design and construct the Garage and the Roads is subject to completion of the Closing described in Section 4, which Closing is subject to satisfaction or waiver by the City of all of the following contingencies (the "*City Contingencies*"):

1. Confirmation by CML that all CML Contingencies have been satisfied or waived.
2. Final approval of the design and budget for the Garage and Roads by the City.
3. Execution and delivery by the City and Turner Construction Co. (or such other construction company acceptable to the City) of a construction contract for the Garage.
4. Execution and delivery of a construction contract for the Roads by the City and the road contractor(s).
5. Certification by the City's Director of Finance that funds sufficient for the construction of the Garage and the Roads are available and have been appropriated for those purposes.
6. Final approval of the Plat by the City and the Dublin City School District.

Upon request by CML, the City shall confirm in writing from time to time which City Contingencies have and have not been satisfied or waived.

E. At the Closing described in Section 4, the City will encumber the Garage Property with a purchase option in favor of CML in the form attached as Exhibit "D" hereto (the "*Garage Option Agreement*"). The Garage Option Agreement shall provide CML with the first option to purchase the Garage and Garage Property in accordance with its terms.

Section 3. CML to Design and Construct the Library.

A. CML will design and construct an approximately 42,500 square foot, two story library, located on the eastern portion of the Library Property, and with its primary frontages on High Street and North Street (the "*Library*"). CML's current budget for the development of this new Library and all amenities is \$18,500,000, which includes the CML Garage Contribution. CML shall substantially complete construction of the Library, subject to Force Majeure, within 24 months of satisfaction of all CML Contingencies.

B. ~~CML will have final discretion on~~ The design of the new Library; ~~provided the design is~~ must be consistent with; and approved according to, the City's applicable development review regulations. Although CML reserves all rights as a political subdivision of the State of Ohio, the design of the new Library must ultimately be approved by the City's required reviewing body through the City's applicable development review regulations.

C. CML's obligation to (i) vacate and demolish the existing library and construct the new Library, (ii) make the CML Garage Contribution, and (iii) convey the Road Property and Garage Property to the City, is subject to completion of the Closing described in Section 4, which Closing is subject to satisfaction or waiver by CML of all of the following contingencies (the "CML Contingencies"):

1. Confirmation by the City that all City Contingencies, except for receipt of the CML Garage Contribution, have been satisfied or waived.
2. ~~Final approval of the design and~~ Confirmation by CML that budget for the Library ~~by CML and approval of~~ final design ~~of~~ for the Library as approved by the City pursuant to the City's development review regulations are satisfactory to CML.
3. Final approval of the proposed new Library by all governmental authorities with jurisdiction over the Library Property (including CML's obtaining all approvals, permits (including building permits), and all other governmental consents or approvals for the development and construction of the new Library).
4. Certification by CML's fiscal officer that funds sufficient for the construction of the Library and making the CML Garage Contribution are available and have been appropriated for those purposes.
5. Final approval of the Plat by CML.
6. ~~Final approval of the~~ Confirmation by CML that final design of the Garage and the layout of the Garage Property by CML ~~as approved by the City pursuant to the City's development review regulations are satisfactory to CML.~~
7. Confirmation by the City that the Remaining Library Property has been rezoned to a classification approved by CML.

Upon request by the City, CML shall confirm in writing from time to time which CML Contingencies have and have not been satisfied or waived.

D. At the Closing described in Section 4, CML will encumber the Remaining Library Property with a purchase option in favor of the City in the form attached as Exhibit "E" hereto (the "*Remaining Library Property Option Agreement*"). The Remaining Library Property Option Agreement shall provide the City with the first option to purchase the Library and Remaining Library Property in accordance with its terms, subject to any rights of DCSD.

Section 4. Closing. On a mutually agreeable date, not later than 30 days after the satisfaction or waiver of both the CML Contingencies and the City Contingencies (the "*Closing Date*"), CML and the City shall deposit into escrow with a mutually acceptable escrow agent (the "*Escrow Agent*") all of their respective Escrow Deliveries (as hereinafter defined).

A. On or before the Closing Date, CML shall deliver to the Escrow Agent (i) the CML Garage Contribution, (ii) executed limited warranty deed or deeds conveying the Road Property and the Garage Property to the City, (iii) a counterpart of the parking easement agreement in the form of Exhibit "C", executed by CML, (iv) a counterpart of the Remaining Library Property Option

Agreement, executed by CML, and (v) a counterpart of the final Plat, executed by CML (collectively, the “*CML Escrow Deliveries*”).

B. On or before the Closing Date, the City shall deliver to the Escrow Agent (i) a counterpart of the parking easement agreement in the form of Exhibit “C”, executed by the City, (ii) a counterpart of the final Plat, executed by the Dublin City School District, and (iii) the Garage Option Agreement, executed by the City (collectively, the “*City Escrow Deliveries*”). The CML Escrow Deliveries and the City Escrow Deliveries are collectively referred to herein as the “*Escrow Deliveries*.”

C. On the Closing Date, Escrow Agent shall (i) record the Plat and the limited warranty deed(s) conveying title to the Road Property and the Garage Property to the City in the Franklin County Recorder's Office, (ii) immediately after such Plat and deeds are recorded, record in the Franklin County Recorder's Office the fully executed (a) parking easement agreement, (b) Remaining Library Property Option Agreement, and (c) Garage Option Agreement, and (iii) deliver the CML Garage Contribution to the City.

D. Notwithstanding the conveyance of the Road Property and the Garage Property by CML to the City, CML shall be permitted to remain in possession of the entire Library Property until such time as Turner Construction Co. (or such other construction management company acceptable to the City and CML) is ready and willing to commence demolition of the existing library building and commence construction of the Garage. The City and CML agree to coordinate their respective projects on the Library Property with Turner Construction Co. (or such other construction management company acceptable to the City and CML) to facilitate CML's use of the Library Property prior to, during and after demolition of the existing library building, construction of the new Library and construction of the Garage and Roads.

Section 5. Miscellaneous.

A. Assignment. This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

B. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

C. Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

D. 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. Time is of the essence of this Agreement.

E. Administrative Actions. The City represents and warrants to CML that, (i) to the extent permitted by law, and except as otherwise provided in this Agreement, all actions taken or

permitted to be taken by the City under or in furtherance of this Agreement may be taken by the City Manager and will not require legislative action of a City Council beyond the legislative actions authorizing this Agreement, and (ii) the City Manager, on behalf of the City, is authorized to make all approvals and consents that are contemplated by this Agreement, without the separate approval by the City Council, including reviews, approvals, and consents (including but not limited to, such actions with respect to the City Contingencies) and any and all such other approvals contemplated herein. All actions, approvals, and consents of City required under this Agreement must be given in writing (which may include e-mail) in order to be effective.

CML represents and warrants to the City that (a) to the extent permitted by law, and except as otherwise provided in this Agreement, all actions taken or to be taken by CML under this Agreement may be taken by Patrick Losinski, Chief Executive Officer of CML, and will not require approval by the CML Board of Trustees beyond the approval authorizing this Agreement., and (b) Patrick Losinski, on behalf of CML, is authorized to make all approvals and consents that are provided for in this Agreement, without the separate approval by the CML Board of Trustees, including reviews, approvals, and consents (including but not limited to, such actions with respect to the CML Contingencies) and any and all such other approvals contemplated herein. All actions, approvals, and consents of CML required under this Agreement must be given in writing (which may include e-mail) in order to be effective.

F. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties. This Agreement does not and may not be construed to create a partnership or joint venture between or among any of the Parties.

G. Events of Default and Remedies; Force Majeure. Except as otherwise provided in this Agreement, in the event of any breach of this Agreement, or any of its terms or conditions, by any Party hereto, such breaching Party shall, upon written notice from any non-breaching Party, proceed immediately to cure or remedy such breach. In the event such breach is of such nature that it cannot be cured or remedied within a thirty (30) day period, then in such event the breaching Party shall promptly commence its actions to cure or remedy said breach and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the breach shall not be cured or remedied within a reasonable time thereafter, then the non-breaching Party may declare the breaching Party to be in default of this Agreement upon written notice to the breaching Party. After delivering such default notice, breaching Party shall be in default under this Agreement and the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to compel the defaulting Party to cure and remedy such default or breach (which remedies shall include, but are not limited to, specific performance).

To the extent that an obligation of a Party is subject to Force Majeure as provided herein, if a Force Majeure (as such term is defined below) event causes the failure, that Party shall receive an additional period of time as is reasonably necessary to perform or observe the obligation in light of the event if it notifies the other of the potential event and the extent of the delay promptly after becoming aware of the event. As used herein, "*Force Majeure*" means the following: acts

of God; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; nuclear accidents; fires; restraint of government and people; explosions; and, as they relate to those particular improvements, force majeure acts or conditions claimed by the applicable contractor under the construction contract for the Library, Roads, or Garage.

H. Executed Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

I. Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or CML other than in his or her official capacity, and neither the members of the legislative body of the City or the Board of Trustees of CML, nor any City or CML official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City and CML contained in this Agreement. Any obligation requiring the expenditure of money shall be enforceable only to the extent that sufficient money has been appropriated by the legislative body, or the board of trustees, as applicable, of the obligated party for that purpose.

J. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and CML, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio. This Agreement shall not be construed more strictly against one Party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

K. Legal Authority. The Parties respectively represent and covenant that each is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. The Parties further respectively represent and covenant that this Agreement has, by proper action, been duly authorized, executed and delivered by the Parties and all steps necessary to be taken by the Parties have been taken to constitute this Agreement, and the covenants and agreements of the Parties contemplated herein, as a valid and binding obligation of the Parties, enforceable in accordance with its terms.

L. Notices. Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be

in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused. For purposes of this Agreement, notices shall be addressed to:

- (i) the City at: City of Dublin, Ohio
5800 Shier Rings Road
Dublin, Ohio 43016-7295
Attention: Economic Development Director
- (ii) the CML at: Columbus Metropolitan Library
96 S. Grant Avenue
Columbus, Ohio 43215
Attention: CFO

The Parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

M. No Waiver. No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

N. 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.

O. 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.

P. Survival. All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement. The respective rights and obligations of the parties shall survive the Closing of the transactions contemplated in this Agreement.

Q. Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the City and the CML have caused this Agreement to be executed in their respective names by their duly authorized representatives, all as of the date first written above.

CITY OF DUBLIN, OHIO

By: _____

Printed: Dana L. McDaniel

Title: City Manager

Approved as to Form:

By: _____

Printed: Jennifer Readler

Title: Director of Law

**THE BOARD OF TRUSTEES OF THE COLUMBUS
METROPOLITAN LIBRARY**

By: _____

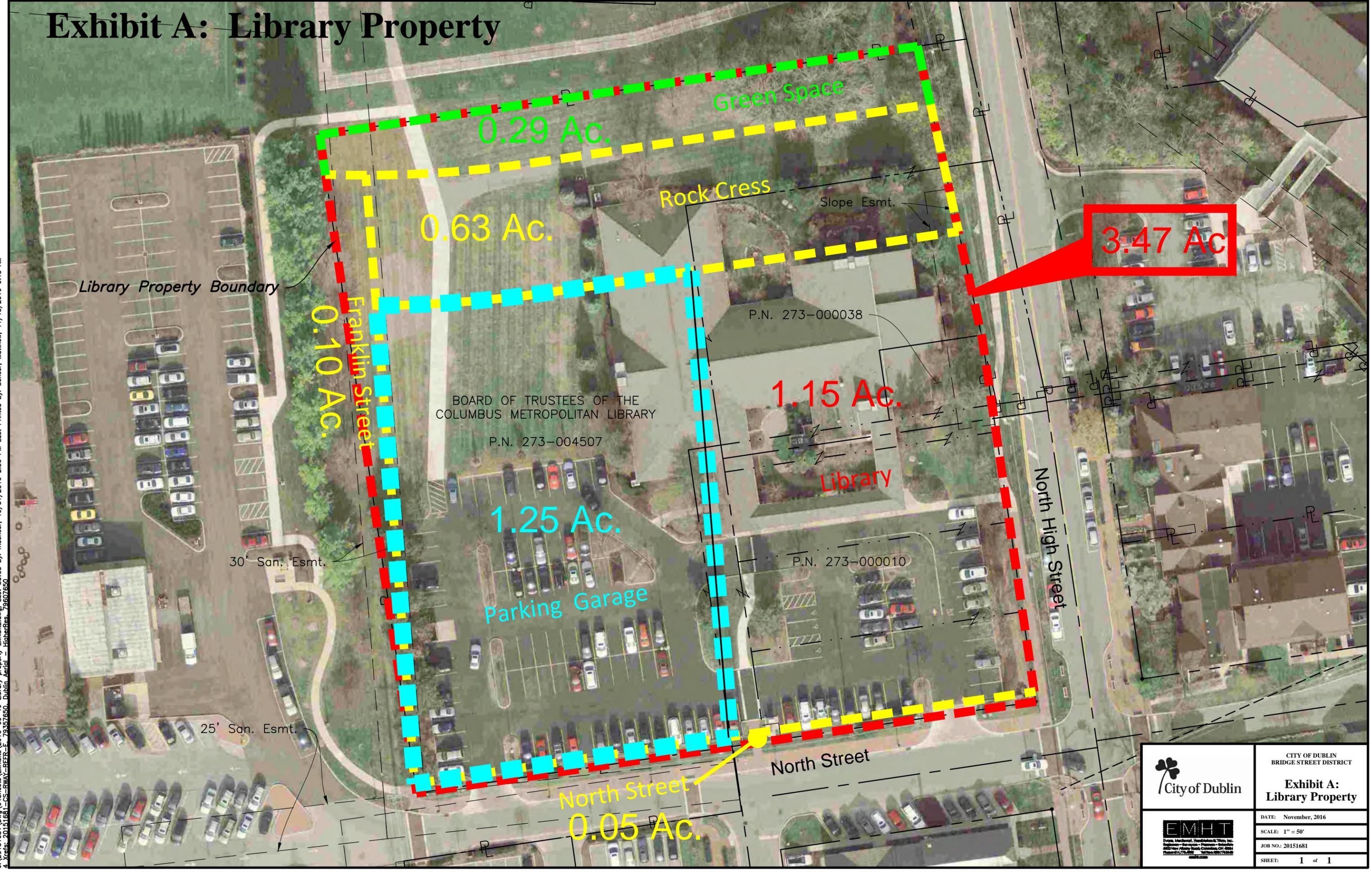
Printed: Paula L. Miller

Title: Chief Financial Officer / Fiscal Officer

EXHIBIT A

DEPICTION OF PROPERTY

Exhibit A: Library Property



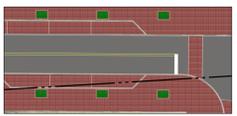
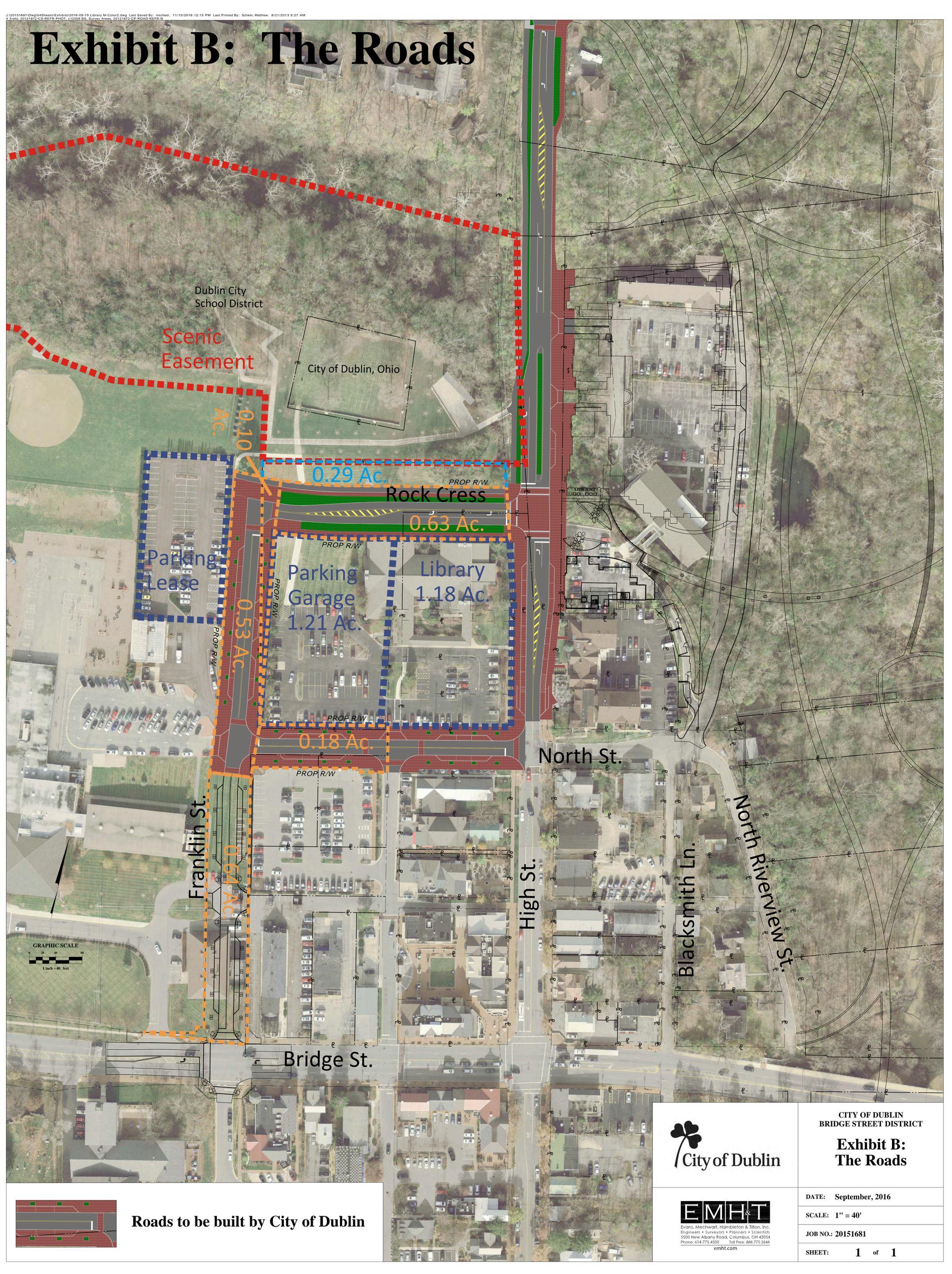
J:\20151681\Drawings\04Sheets\Exhibits\2016-09-19 Library property Exhibit2.dwg, Last Saved By: mscheer, 10/31/2016 2:50 PM Last Printed By: Scheer, Matthew, 11/15/2016 9:15 AM
4. Xrefs: 20151681-CS-RWA-REFR-E-79357650, Dublin_Aerial

 City of Dublin	CITY OF DUBLIN BRIDGE STREET DISTRICT
	Exhibit A: Library Property
 EMHT Engineering - Surveying - Planning - Soilwork 2022 New Albany Road, Columbus, OH 43260 Phone: 614.778.4100	DATE: November, 2016 SCALE: 1" = 50' JOB NO: 20151681 SHEET: 1 of 1

EXHIBIT B

DEPICTION OF ROADS

Exhibit B: The Roads



Roads to be built by City of Dublin



CITY OF DUBLIN
BRIDGE STREET DISTRICT

Exhibit B: The Roads

DATE: September, 2016

SCALE: 1" = 40'

JOB NO.: 20151681

SHEET: 1 of 1



EXHIBIT C

FORM OF EASEMENT AGREEMENT

[TO BE ATTACHED]

**EASEMENT AGREEMENT
(Dublin-Columbus Metropolitan Library)**

THIS EASEMENT AGREEMENT (Dublin-Columbus Metropolitan Library)(this “*Agreement*”) is made and entered this _____ day of _____, 2017, by and between the CITY OF DUBLIN, OHIO (the “*City*”), a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio (the “*State*”) and its Charter, and THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code (“*CML*” and together with the City, the “*Parties*”), under the circumstances summarized in the following recitals.

RECITALS:

WHEREAS, CML and the City have agreed to work cooperatively to help facilitate the development of a new Dublin branch library by CML (the “*Library*”) on the real property identified on Exhibit A as the “*Library Site Property*” and legally described on Exhibit C (the “*Library Site Property*”), in accordance with the terms of the Development Agreement by and between the City and CML dated as of _____, 2017 (the “*Development Agreement*”).

WHEREAS, the City has agreed to construct a new parking structure on the real property identified on Exhibit A as the “*Garage Property*” and legally described on Exhibit D (the “*Garage Property*”), currently estimated at no less than 475 spaces, subject to finalization of plans, specifications and budget and in accordance with the terms of the Development Agreement (the “*Garage*”), to serve the new Library as well as the public parking needs of the Dublin Historic District area.

WHEREAS, two-hundred (200) of the parking spaces in the Garage, as designated on Exhibit B, shall be for the exclusive use by CML and its Permittees (as defined below)(the “*CML Parking Spaces*”), in accordance with the terms of the Development Agreement and this Agreement.

WHEREAS, CML has agreed in the Development Agreement to make a one-time contribution towards the construction costs of the Garage and agrees to contribute to the operation and maintenance costs of those parking spaces as set forth in Section 2.04 of this Agreement.

WHEREAS, CML expects to construct a pedestrian walkway connecting the Library to the Garage in order to provide CML and its Permittees ingress and egress to the Library from and to the Garage (the “*Pedestrian Walkway*”). The Parties currently intend that the Pedestrian Walkway be located on that portion of the Library Site Property identified and shown on Exhibit A.

WHEREAS, the City desires to grant and CML desires to receive, for the benefit of CML and the Library Site Property, (i) an easement for the use of the CML Parking Spaces by CML and its Permittees, and (ii) an easement necessary for the construction, improvement, and maintenance of the Pedestrian Walkway by CML, in accordance with the terms of this Agreement.

WHEREAS, CML desires to grant and the City desires to receive, for the benefit of the Garage Property, a temporary easement to access the Library Site Property to construct and maintain the Garage, together with a permanent easement for minor encroachments, all in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing, of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree to the foregoing and as follows:

ARTICLE 1

Definitions

As used in this Agreement, the following terms shall have the meanings set forth in this Article 1:

1.01 “*Book-drop*” means a book-drop within the area of the CML Parking Spaces for the return of CML books and materials.

1.02 “*Building Components*” means the floor slabs, ramps, stairways, escalators, elevators, utility lines and all the other component parts of an improvement including, without limitation, structural, mechanical, electrical, plumbing, heating and ventilating components.

1.03 “*Garage*” has the meaning set forth in the Recitals, including all Building Components incorporated therein.

1.04 “*Garage Contribution*” means CML’s one-time contribution towards the construction costs of the Garage pursuant to the Development Agreement.

1.05 “*Garage Property*” has the meaning set forth in the Recitals.

1.06 “*CML Parking Spaces*” means the two-hundred (200) parking spaces in the Garage as further identified on Exhibit B.

1.07 “*Library Site Property*” has the meaning set forth in the Recitals.

1.08 “*Parking Maintenance Contribution*” has the meaning assigned to it in Section 2.04.

1.09 “*Pedestrian Walkway*” has the meaning set forth in the Recitals, including all Building Components incorporated therein.

1.10 “*Permittees*” means, collectively, the Non-Transient Permittees and the Transient Permittees. “*Transient Permittees*” means the licensees, guests and invitees of CML who visit the Library to access materials or to participate in programming at the Library Site Property sponsored by CML or its non-profit or governmental tenants or subtenants. “*Non-Transient Permittees*” means all employees, agents, non-profit or governmental tenants or subtenants, contractors, licensees, concessionaires, guests and invitees of CML who are on or at the Library Site Property and who are not Transient Permittees.

ARTICLE 2

Parking Easements and Garage Operation

2.01 Grant of Easement for CML Parking Spaces: The City hereby grants to CML a perpetual easement for the benefit of CML and the Library Site Property for the purpose of exclusive use of the CML Parking Spaces and non-exclusive ingress, egress and access to and from the CML Parking Spaces for CML and its Permittees. CML and its Permittees may use the CML Parking Spaces solely for the purpose of parking for automobiles, sport utility vehicles, motorcycles and pick-up trucks, but specifically excluding the use of such spaces for the parking of recreational vehicles, boats, trailers, storage facilities (such as portable on demand storage facilities), or other vehicles exceeding the height, size and weight limitations for the Garage, and non-operational vehicles. Additionally, the CML Parking Spaces may be used for a Book-drop for the return of CML books and materials. No other use of the CML Parking Spaces shall be permitted without the prior written consent of the City, which consent may be withheld in its sole discretion. Use of the CML Parking Spaces shall be subject to compliance with (i) all applicable governmental laws, ordinances, rules and regulations and (ii) all rules and regulations promulgated by the City from time to time with regard to the general operation of, and access to, the Garage, provided that such rules and regulations do not impose any significant additional costs for the right to use the CML Parking Spaces (subject to Section 2.03 below) or materially

interfere with the use of the CML Parking Spaces by CML and its Permittees. The easement with respect to the CML Parking Spaces granted hereunder shall commence upon the City's substantial completion of construction of the Garage and CML's substantial completion of the Library and the receipt by the City of the CML Garage Contribution, and shall be perpetual (except as otherwise specifically provided herein).

2.02 Operation of Garage, Signage & Parking Control Equipment. The City agrees to (i) operate the Garage at all times as a first class parking garage open to the general public and maintain, or cause to be maintained, the Garage, including the CML Parking Spaces, in a good, clean and safe condition, including, without limitation, patching of pavement, resurfacing, sweeping and removing snow, ice, trash and debris, and (ii) provide adequate lighting and security at all times for the Garage and Garage Property as determined reasonably necessary and appropriate by the City. If CML so elects, in CML's sole discretion and expense, CML shall be permitted to (a) provide supplemental security in the Garage for the CML Parking Spaces, (b) station CML customer service personnel in the Garage and (c) take such enforcement actions as are reasonably necessary to make available the designated CML Parking Spaces to CML and its Permittees (including, without limitation, private ticketing or towing, or both, any vehicles in the CML Parking Spaces or otherwise blocking access to, or use of, the CML Parking Spaces); provided, however, any such employees or agents of CML engaged in such activities shall follow all lawful instructions given by City law enforcement and other safety service personnel. Prior to undertaking any such activities, CML shall provide to the City liability insurance coverage for such activities in the amounts set forth in Section 2.06(a) naming the City as an additional insured; provided that the limitations for such insurance shall be \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate. Such insurance shall be primary with respect to such activities. Additionally, CML hereby releases the City from any claims for injury to persons or damage to property relating to the Garage, the Garage Property and the Library Site Property arising out of any act, omission or negligence of CML or any agent, contractor, or employee of CML.

The City agrees to construct, install, maintain and replace signage at the North Street entrance of the Garage (which entrance shall connect directly to the first floor of the Garage) indicating that such entrance is primarily for CML Permittees during Library hours of operation. Additionally, the City shall construct, install, maintain and replace way-finding signage directing any CML Permittees electing to use the Franklin Street Garage entrance to the first floor of the Garage and the CML Parking Spaces, which shall be subject to CML's prior approval, not to be unreasonably withheld. All signage constructed by the City at the North Street entrance and the messaging on such signage shall be subject to CML's prior approval, which shall not be unreasonably withheld.

The City agrees, at the City's expense, to install conduit pathways throughout the Garage for the benefit of the City and CML in connection with the initial construction of the Garage (the "Conduit Pathways"). Prior to the construction of the Garage, the City and CML shall work

together to approve plans for such Conduit Pathways as it relates to those portions of the Garage where the CML Parking Spaces are located. The City agrees to install additional conduit pathways to likely CML parking control equipment locations, including the entrances and exits to the CML Parking Spaces and the CML proposed signage locations, and other Conduit Pathway locations as CML determines is reasonably necessary, for the benefit of CML, in order to facilitate future installation by CML of parking control systems in the Garage for the CML Parking Spaces (collectively, "Additional CML Conduit Pathways"). CML shall reimburse the City for the actual out-of-pocket expenses incurred by the City to install any Additional CML Conduit Pathways requested by CML. After construction of the Garage, CML may elect to have the City install parking control systems in the Garage in such locations as CML determines are reasonably necessary in order to control access to and from the CML Parking Spaces; provided that any such systems shall not restrict access to or from the Garage from any entrance or exit from the Garage nor access to any drive aisles within the Garage without the City's consent, which consent may be withheld in the City's sole discretion. CML shall consult with the City prior to requesting installation of any such parking control systems to ensure that such parking control systems are compatible with any then-existing or actively contemplated parking control systems installed in the Garage by the City. The use of the Conduit Pathways by the City shall not unreasonably interfere with CML's use of the Conduit Pathways and the use of the Conduit Pathways by CML shall not unreasonably interfere with the City's use of the Conduit Pathways. Any use of the Additional CML Conduit Pathways by the City shall be subject to the prior written consent of CML, which consent shall not be unreasonably withheld. CML shall pay for the cost of any parking control equipment installed at CML's request for the protection of the CML Parking Spaces. In addition, if the City is installing general parking control equipment for the Garage, the City shall pay for the cost of any parking control equipment installed by the City, and CML shall pay the incremental cost of any additional parking control equipment installed at CML's request for the CML Parking Spaces in addition to parking control equipment installed by the City.

2.03 Parking Charges. The City may, in its discretion, charge users for the privilege of parking in the Garage; provided, however, that if the City elects to charge for parking, (i) it may not charge for use of the CML Parking Spaces by CML and its Transient Permittees using the Library during the Library's hours of operation (and a reasonable period before and after the Library's hours of operation), and (ii) it may not charge for use of the CML Parking Spaces by CML and its Non-Transient Permittees at any time. CML shall use its best efforts to ensure that its Non-Transient Permittees only park in the CML Parking Spaces. During such times as the City charges for Garage parking, CML's and CML's Permittees use of the CML Parking Spaces shall be at no cost, except as provided in Sections 2.04 and 2.10, if applicable, below. During such times as the City charges for Garage parking, CML shall validate parking for the CML Parking Spaces by its Permittees and the City agrees to honor all such validations at no cost to CML or its Permittees.

CML and the City agree to work together to limit attempts by users of the Garage to feign usage of the Library in order to make use of the CML Parking Spaces without paying standard parking charges. In connection therewith, if any Transient Permittees are using the CML Parking Spaces in connection with use of property other than the Library Site Property and the City is charging users for parking in the Garage, then in such event CML shall validate parking charges only for a "free" period whereby CML would validate such Transient Permittee's use of the Garage to reflect the Transient Permittee's use of the Library and allow the City to charge such Transient Permittees for the use of the CML Parking Spaces during any non-Library use. In no event shall CML or any Non-Transient Permittee be required to pay any such parking charges, even if such use extends beyond any "free" period. Such "free" period shall initially be two (2) hours, but may be extended by CML on a case by case basis for Transient Permittees attending events or programming at the Library which extend beyond the normal "free" period, in order to prevent such Transient Permittees from being required to pay any parking charges. CML may permanently increase or decrease the length of the "free" period from time to time upon either (a) the mutual agreement of CML and the City, or (b) providing a documented study to the City demonstrating that a longer "free" period is necessary to cause ninety percent (90%) or more of the Transient Permittees to qualify for free parking during their use of the Library, in which event the City shall not unreasonably withhold its consent to the change in the "free" period requested by CML. In the event that the City is charging users for parking in the Garage and a Transient Permittee parks a vehicle in the Garage for a period in excess of the "free" period, then the parking charge payable by such Transient Permittee shall be calculated using the same rate schedule as the City charges to other users of the Garage and subtracting therefrom the portion of the fee relating to the "free" period. For example, if the City is charging Garage users Two Dollars (\$2.00) per hour for the first two (2) hours and then One Dollar (\$1.00) per hour for every hour thereafter, and the "free" period is two (2) hours, then a Transient Permittee who parks in the Garage for three (3) hours shall be charged One Dollar (\$1.00) in total (\$5.00 less \$4.00).

Notwithstanding the provisions of the immediately preceding paragraph, CML may charge CML's Transient Permittees for use of the CML Parking Spaces during the "free" period, and may charge CML's Non-Transient Permittees for use of the CML Parking Spaces at any time, in an amount determined by CML, which shall not exceed the amount the City is charging users for parking in the Garage. The City agrees to work with CML to collect such CML imposed charges. If CML elects to charge for use of the CML Parking Spaces, CML shall pay any real property taxes levied with respect to the CML Parking Spaces. Any such CML imposed charges collected by the City, less the City's costs of collecting and accounting for such charges and less the amount of any real property taxes payable as a result of such charges, shall be applied towards CML's Parking Maintenance Contribution. Any revenue collected in excess of CML's Parking Maintenance Contribution shall be retained by the City and used to pay costs of maintaining and repairing the CML Parking Spaces.

CML and the City agree to work together to allow CML to use, in addition to the CML Parking Spaces, additional parking spaces in the Garage when CML has special events in the Library that require more than the CML Parking Spaces. CML and the City shall establish a process whereby CML provides reasonable advance notice informing the City as to the number of additional parking spaces required for a CML event and the date thereof, and, so long as the City does not already have a preexisting commitment requiring the use of those Garage parking spaces requested by CML scheduled on the same date, the City shall cooperate with CML to make available such requested additional parking spaces (or such portion of spaces as are not already committed) on the date and during the time period so requested. The City shall not charge CML for the use of such additional spaces at rates exceeding the Parking Charges in effect from time to time for the other parking spaces in the Garage. Likewise, CML shall work in good faith with the City to make available the CML Parking Spaces to the general public at times outside the Library's hours of operations or special events, and during the Library's hours of operations to the extent not necessary to accommodate the parking demand for the Library and its Permittees, as determined solely by CML in its good-faith, reasonable discretion.

2.04 Parking Maintenance Contribution. CML shall pay to the City an annual contribution consisting of the following components: (i) the amount of Forty Thousand Four Hundred Forty Eight Dollars and Fifty Cents (\$40,448.50) as a contribution to Garage annual operating and maintenance expenses (the "Operating Contribution"), plus (ii) the amount of Thirty-six Thousand One Hundred Dollars (\$36,100) as a contribution for capital repair and replacement expenses (the "Capex Contribution"), both of which amounts shall be adjusted annually commencing in the January following the first full calendar year that the Garage is operational in an amount equal to the percentage annual change in the CPI multiplied by the previous year's contribution (the Operating Contribution and the Capex Contribution are referred to together as the "Parking Maintenance Contribution"). The "CPI" means the Consumer Price Index for All Urban Consumers, U.S. City Average, All items, published by the Bureau of Labor Statistics of the United States Department of Labor (base year 1982-84=100), or any successor index thereto as hereinafter provided. If publication of the CPI is discontinued, or if the basis of calculating the CPI is materially changed, then the City and CML shall substitute for the CPI comparable statistics as computed by an agency of the United States Government or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result that would have been achieved by the CPI. The Parking Maintenance Contribution shall first be payable for the year in which both the Garage and the Library are open to the public, provided the Parking Maintenance Contribution for the first such year that both the Garage and the Library are open to the public shall be prorated based on the number of days in that year that both the Garage and the Library are open to the public, and the Parking Maintenance Contribution for that year, once determined, shall be payable within fifteen (15) days after CML's receipt of an invoice therefore from the City. Thereafter, the Parking Maintenance Contribution shall be payable in advance within fifteen (15) days after CML's receipt of an invoice therefore once the CPI for January of such year has been published, without offset or deduction. Notwithstanding the foregoing, payment of the Capex Contribution shall

accrue annually but the accrued amount shall not first be payable until the earlier of: (y) the due date for the 20th installment of the Parking Maintenance Contribution, provided CML has the option to extend to the due date to the 25th installment or the 30th installment by extending its commitment to own and operate the Library as set forth under Section 2.09 from twenty (20) years to twenty-five years or thirty years, respectively and (z) the date of transfer of the Library Site Property to a Future Owner pursuant to Section 2.10. CML shall exercise its option to extend the due date for the Capex Contribution pursuant to clause (y) of the preceding sentence by delivering to the City, prior to the due date for the Capex Contribution, a written instrument executed by CML confirming that CML is extending its commitment. The Parking Maintenance Contribution shall initially be payable at the office of the City's Director of Finance, 5200 Emerald Parkway, Dublin, Ohio 43017, or at such other address as the City may designate in writing.

2.05 Casualty and Condemnation.

(a) Casualty. In the event of a casualty which affects access to, or use of, the CML Parking Spaces, the City shall cause the CML Parking Spaces (and access thereto) to be restored and/or rebuilt promptly after the occurrence of such event, provided that the City shall have no obligation to restore and/or rebuild the CML Parking Spaces after a casualty to the extent (i) not covered by insurance proceeds, and (ii) not required by the terms hereof to be covered by insurance. So long as the City maintains the insurance required hereunder to be maintained by the City, if the City nonetheless does not receive adequate insurance proceeds therefrom for such restoration or rebuilding, and if the City does not appropriate additional funds necessary for restoration or rebuilding, and the City elects not to restore and/or rebuild pursuant to this Section 2.05, then the City shall to the extent the costs of the following are payable from available insurance proceeds (x) promptly raze the Garage (or any remaining portion thereof) and remove all debris from the Garage Property, and grade the Garage Property to a level condition consistent with the adjacent grades and in a good and workmanlike condition, and (y) convey fee simple title to the Garage Property to CML, free and clear of any mortgages or City financing liens, within thirty (30) days thereafter by quitclaim deed for the sum of Ten and 00/100 Dollars (\$10.00). In addition to the deed conveying fee simple title to the Garage Property, CML shall also be entitled to a portion of the insurance proceeds relating to the CML Parking Spaces, such amount being calculated by multiplying the total net insurance proceeds by the CML Garage Contribution (as defined in the Development Agreement) and dividing the product by the total development costs of the Garage, which amount shall be reduced by the costs of razing the Garage, removing all debris from the Garage Property and grading the Garage as described in the preceding sentence, and any remaining amount shall be paid promptly to CML after the City's receipt of such insurance proceeds.

The City shall use its best efforts to give written notice to CML of its intention to not restore or rebuild the Garage within sixty (60) days after the date of such casualty.

(b) Condemnation. In the event of a condemnation proceeding in eminent domain by a governmental entity other than the City that involves the Garage Property and does not cause damages to the Library Property to the extent the Library building can no longer function as a library, the City shall promptly restore and rebuild the Garage, or rebuild a replacement facility on the Garage Property that includes 200 parking spaces for CML and access thereto, provided that the City shall not be obligated to restore or rebuild the Garage (or any portion thereof) or a replacement to the Garage if such restoration or rebuilding of 200 parking spaces for CML is not reasonably possible. The City's obligation to repair or restore the 200 parking spaces for CML and pay costs and expenses associated therewith shall be limited to the amount of condemnation proceeds received by the City. In the event of a taking which makes it not reasonably possible for the City to restore the Garage or rebuild a replacement facility on the Garage Property that includes 200 parking spaces for CML and access thereto, then at the City's option: (i) this Agreement shall terminate, the City shall convey fee simple title to the remainder of the Garage Property (or such remaining portions thereof after such taking by eminent domain) to CML, free and clear of any mortgages and City financing liens on the Garage Property, within ninety (90) days thereafter by quitclaim deed for the sum of Ten and 00/100 Dollars (\$10.00), and the City will cause to be paid to CML a portion of the condemnation proceeds relating to the loss of the CML Parking Spaces, with such amount being calculated by multiplying the total net condemnation proceeds for the improvements to the Garage Property by the CML Garage Contribution (as defined in the Development Agreement) and dividing the product by the total development costs of the Garage; or (ii) the City may build a replacement facility on property other than the Garage Property, provided that such replacement facility must be located within two hundred fifty (250) feet of the Library Property and provide 200 parking spaces (or such lesser amount as is mutually agreed by CML and the City based on actual usage and demand for the CML Parking Spaces prior to such taking) as replacement spaces for the CML Parking Spaces.

Except as described in the preceding paragraph, the City shall be entitled to the proceeds of any award for the taking of the Garage Property and the improvements thereto. CML shall be entitled to the proceeds of any award for the damage to the residue of the dominant estate (the Library Property) on account of a taking of the servient estate (the Garage Property). In the event the City prosecutes a condemnation action against CML's easement rights under this Agreement, then CML shall be entitled to all available rights and remedies at law or in equity. In the event of a taking by a governmental entity other than the City which does not interfere with or negatively impact CML's use of, or access to, the CML Parking Spaces, then the City may retain any such condemnation proceeds from the taking authority. In all events, CML shall be entitled to participate in

any condemnation proceedings relating to the CML Parking Spaces. In all other condemnation actions not otherwise described herein the parties shall be entitled to all available rights and remedies at law or in equity.

2.06 Insurance. During the continuance of this Agreement, the City shall maintain, or cause to be maintained, the following insurance coverage relating to the Garage and Garage Property:

(a) comprehensive general liability insurance, including auto, with limits of liability for property damage and personal injury or death, of at least \$5,000,000 per occurrence and with a deductible not in excess of \$25,000, which may be provided by umbrella or excess liability policies, and worker's compensation insurance (including employer's liability insurance), for all employees, contractors, or agents of the City engaged in the operation and maintenance of the Garage; and

(b) all risk (including builder's risk during construction) property insurance in the amount of the full replacement cost of the Garage, exclusive of land (and all other property insured thereby if such policy applies to property other than the Garage), with a deductible not in excess of \$25,000 in the aggregate, with endorsement for coverage against earthquake if available at a commercially reasonable price, including, but not limited to, fault area(s), as designated on any map prepared or issued for such purpose by any governmental authority.

All liability policies shall name the City or the then manager of the Garage as the named insured and include CML, and any mortgagee of CML as additional insureds. All property insurance policies maintained by the City must name the City as loss payee, with the proceeds to be utilized for the repair and restoration of the Garage, as set forth in Section 2.05(a) above. All policies must be issued by carriers with a *Best's Insurance Reports* policyholder's rating, to the extent commercially reasonable, of "A-" and a financial size category of "XI" or better. The minimum limits of insurance set forth in Section 2.06(a) above shall be increased from time to time to reflect the amounts of coverage customarily carried in Central Ohio by prudent owners of similar property, as determined by the parties upon request of either party hereto.

Notwithstanding any provision to the contrary in this Agreement, each party (the "*Releasing Party*") hereby releases and waives for itself, and each person or entity claiming by, through or under it, the other party (the "*Released Party*") from any liability for any loss or damage to any person or property located upon any portion of the Garage Property or relating to the Garage, which loss or damage is of the type covered by (i) the insurance required to be maintained under this Agreement irrespective of the amount of such insurance required or actually carried, including any deductible or self-insurance reserve, and/or (ii) insurance that is actually maintained by the Releasing Party. The City and CML agree that, with respect to the Garage and the Garage Property, the City's insurance shall be primary except as provided in Section 2.02.

Each Releasing Party shall use its reasonable efforts to obtain appropriate endorsements to its policies of insurance, releasing the insurer's subrogation rights against the Released Party with respect to the foregoing, but failure to obtain such endorsements shall not affect the release and waiver hereinabove given.

Additionally, the City hereby releases CML and its successors and assigns from any claims for injury to persons or damage to property relating to the Garage, the Garage Property and the Library Site Property arising out of any act, omission or negligence of the City or any agent, contractor, or employee of the City.

2.07 Encroachments: CML hereby grants to the City an exclusive easement appurtenant to the Garage Property to locate such portions of the Garage on the Library Site Property as may result from construction of the garage pursuant to the final agreed upon plans for the Garage pursuant to the Development Agreement or minor deviations or errors in construction of the Garage; provided, however, that such encroachments may not extend onto the Library Site Property by more than two inches or such greater distance approved by CML. For purposes of determining CML's approval of such encroachments, the City shall notify CML at such time as [excavation for the footers for the Garage]¹ have been completed, at which time CML shall promptly inspect the location of the Garage and notify the City of CML's approval of any encroachments or the existence of any encroachments to which CML objects.

2.08 Temporary Easements. CML hereby grants to the City temporary non-exclusive easements appurtenant to the Garage Property to enter onto and use those portions of the Library Site Property identified on Exhibit A in connection with the construction of the Garage. The temporary construction easements granted to the City pursuant to this Section shall terminate upon substantial completion of the Garage. The easements granted pursuant to this Section are subject to the following limitations:

(i) The City shall use reasonable efforts to minimize interference with the construction and operation of the Library and to limit the duration of the same.

(iii) Following completion of the Garage and except (A) prior to the time that the Library is open to the general public, and (B) in cases of emergency, the City shall notify CML in advance of the City's intended use of such temporary easements.

2.09 Covenant Not to Adversely Affect Exclusion from Gross Income of Interest on Garage Debt. CML acknowledges that the City intends to finance a portion of the construction costs of the Garage with bonds or notes the interest on which is expected to be exempt from federal income tax pursuant to the Internal Revenue Code of 1986 (as amended, the "Code"). In order to preserve that exemption, CML agrees that it will own and operate the Library as a public

¹ Note: proper time for CML inspection to be determined.

library for a period of twenty (20) years from the date hereof. CML further covenants that it will not take or permit to be taken on its behalf, during such twenty (20) year period any actions that would adversely affect such exclusion under the Code. The foregoing covenant shall not limit CML's ability to operate as a public library.

2.10 Use of CML Parking Spaces after Conveyance by CML. In the event CML transfers fee simple title to the Library Site Property to a third party after the expiration of the twenty (20) year period in which CML has agreed to own and operate the Library as a public library pursuant to Section 2.08 ("*Future Owner*"), then such Future Owner shall have the easement rights in and to the CML Parking Spaces as set forth in this Section. Upon a transfer of CML's fee simple interest in the Library Site Property to Future Owner, the City and such Future Owner shall jointly designate eighty (80) of the two hundred (200) CML Parking Spaces to surrender to the City, provided such eighty (80) parking spaces must be contiguous or otherwise grouped together, and Future Owner shall have no further right to use such eighty parking spaces except as a member of the general public. Upon the surrender of such eighty (80) parking spaces, the City and Future Owner shall enter into a recordable amendment to this Agreement identifying the surrendered parking spaces and the location of the Future Owner Parking Spaces (as defined below). Future Owner shall retain perpetual easement rights, as fee simple owner of the Library Site Property, to the one hundred twenty remaining CML Parking Spaces (hereinafter, the "*Future Owner Parking Spaces*"), in accordance with the terms of this Agreement, provided the City may charge a parking fee (the "*Parking Fee*") to Future Owner for each such Future Owner Parking Space. The Parking Fee per Future Owner Parking Space charged by the City shall not exceed the greater of (i) the prevailing market charge for monthly parking for spaces with comparable attributes and privileges within the core of the Dublin, Ohio Bridge Street District area, including the Garage, or (ii) the amount of real property taxes proportionately allocable to the Future Owner Parking Spaces plus the Parking Maintenance Contribution (as set forth in Section 2.04).

The Future Owner may defray all or a portion of the Parking Fee by letting the CML Parking Spaces during the period beginning on the date the Future Owner acquires fee simple title to the Library Site Property and ending on the earlier of (y) two years after such acquisition date or (z) the date that any renovations to the Library building undertaken by the Future Owner are complete and a majority of the space within the Library building is placed back into service (such period, the "*Post Conveyance Grace Period*"). The revenue derived from any such letting during the Post Conveyance Grace Period may not exceed the Parking Fee payable by the Future Owner to the City during the Post Conveyance Grace Period, and the Future Owner shall pay over to the City any such excess promptly upon the Future Owner's discovery of the excess. The Future Owner shall not let the CML Parking Space after the end of the Post Conveyance Grace Period. The Future Owner shall provide such financial records as may be requested by the City from time to time in order to determine compliance with this paragraph.

Upon a transfer of CML's fee simple interest in the Library Site Property to Future Owner, the definition of "Permittees" shall automatically be amended to mean the owner or owners of the Library Site Property, their tenants, subtenants, licensees, guests, and invitees.

Notwithstanding anything in this Section to the contrary, from time to time the Future Owner shall be permitted to permanently surrender its easement rights in and to some or all of the Future Owner Parking Spaces upon ten (10) business days' prior written notice to the City. Upon any such surrender, Future Owner shall not be liable for any Parking Fee nor have any future rights relating to such surrendered Future Owner Parking Spaces after the date of such surrender, but shall continue to pay any Parking Fee for the remaining Future Owner Parking Spaces.

2.11 Real Property Tax Exemption. The City and CML agree to cooperate with each other so that the City may obtain and maintain, at no cost to CML, an exemption from real property taxes for the portion of the Garage and Garage Property in which the CML Parking Spaces are located. Such cooperative actions may include obtaining a split of the real property tax parcel for the Garage and the CML Parking Spaces or transferring fee title to the CML Parking Spaces to CML. Any such cooperative actions must be mutually agreeable to the Parties.

ARTICLE 3

Pedestrian Walkway, Book-drop, Access and Encroachment Easements

3.01 Support and Connection of Pedestrian Walkway and Book-drop. The City hereby grants to CML non-exclusive easements across an eastern portion of the Garage Property for the benefit of the Library Site Property for the purposes of (i) allowing the connection or attachment of the Pedestrian Walkway and a Book-drop to the Garage; and (ii) providing support for the Pedestrian Walkway and Book-drop (CML shall pay to City all incremental costs of construction or maintenance of the Garage caused by attachment or support of the Pedestrian Walkway and Book-drop, if any), and (iii) allowing the Pedestrian Walkway and Book-drop to be located on the Garage Property (including any protective coverings). The easements granted pursuant to this Section shall be subject to the following limitations:

(a) No structural loads shall be imposed upon the Garage or any component part thereof in excess of the structural loads which the structural support elements of the Garage were designed to bear. The City agrees that the Garage shall be designed to allow structural loads for the Pedestrian Walkway and Book-drop in accordance with the specifications prepared by Moody Nolan dated _____.

(b) The manner of attachment of the Pedestrian Walkway and Book-drop shall be designed in accordance with generally accepted construction and engineering practices in the manner customary for improvements of such type.

(c) The easements granted pursuant to this Section shall be situated in such locations within the Garage Property as are shown on Exhibit A, attached hereto and made a part hereof, and labeled "Pedestrian Walkway Easement Area" or "Book-drop Area".

(d) The construction of the Pedestrian Walkway or Book-drop shall not commence until the City has approved such plans and specifications in writing, which approval shall not be unreasonably withheld, conditioned or delayed. No approval by the City shall relieve CML from its obligations or limit its liability under this Agreement or subject the City to any liability for any defect in design or construction of the Pedestrian Walkway or Book-drop. CML may elect to have the Pedestrian Walkway or Book-drop, or both, constructed and installed by the City either in connection with the initial construction of the Garage or after the initial construction of the Garage, pursuant to plans and specifications approved by CML and the City. If CML so elects, then the City shall install such Pedestrian Walkway or Book-drop, or both, as applicable, pursuant to such plans and CML shall reimburse the City for the costs incurred by the City in connection with the construction of such Pedestrian Walkway or Book-drop.

(e) The easements granted pursuant to this Section shall be exclusive easements as to the area physically occupied by the Pedestrian Walkway or Book-drop during the existence of such Pedestrian Walkway or Book-drop or any replacement thereof.

3.02 Access.

(a) The City hereby grants to CML the following non-exclusive easements for the benefit of and as an appurtenance to the Library Site Property:

(i) An easement for pedestrian ingress and egress through grade level exterior doorways, access ways and such stairways constituting part of the Garage Improvements as may exist from time to time.

(ii) An easement for pedestrian access, ingress and egress to and from the Garage.

(iii) An easement for pedestrian access, ingress and egress to and from the Garage at such point as the Pedestrian Walkway connects to the Garage.

(iv) Such additional easements for ingress and egress to and from across, over and through the Garage Property and the Garage as may be required by CML from time to time in connection with the construction, maintenance, repair, replacement, use and

operation of the Pedestrian Walkway, Book-drop and the Garage, provided the location and use of such easements do not unreasonably interfere with the use or enjoyment of the Garage by the City.

(b) If constructed, CML shall have the right and obligation, at its expense, to at all times maintain the Pedestrian Walkway and Book-drop in a good, clean, safe and operable condition and in compliance with applicable governmental laws, ordinances, rules and regulations. CML shall have no obligation to construct the Pedestrian Walkway or Book-drop, and if constructed, may remove rather than restore the Pedestrian Walkway or Book-drop in the event of any casualty, condemnation, or otherwise. In the event that the Pedestrian Walkway or Book-drop is not restored after any casualty or condemnation, CML shall remove any remaining portions of the Pedestrian Walkway or Book-drop, including any necessary repairs/restoration to the Garage to close up the Pedestrian Walkway or Book-drop opening on the Garage. The City has no obligation to construct, repair or maintain the Pedestrian Walkway or Book-drop except to the extent of any damage caused by the City.

3.03 Encroachments. The City hereby grants to CML exclusive easements for the benefit of and as an appurtenance to the Library Site Property for such slight encroachments of the Library, Pedestrian Walkway and Book-drop onto the Garage Property as may result from deviations or errors in construction, installation, maintenance, repair, rebuilding or replacement of the Library, Pedestrian Walkway or Book-drop or shifting or settling of the Library, Elevated Pedestrian Walkway or Book-drop, provided the same do not interfere with (i) the use or operation of the Garage as a public parking facility or (ii) the structural integrity or mechanical, plumbing, HVAC and electrical systems of the Garage; and provided further that the same do not extend onto the Garage Property by more than two inches or such greater distance approved by the City. For purposes of determining the City's approval of such encroachments, the CML shall notify the City at such time as [the foundations for the Library]² have been completed, at which time the City shall promptly inspect the location of the Library, Pedestrian Walkway and Book-drop and notify CML of the City's approval of any encroachments or the existence of any encroachments to which the City objects.

3.04 Temporary Easements. The City hereby grants to CML temporary non-exclusive easements on the Garage Property in the areas depicted on Exhibit A to enter onto and use the Garage Property in connection with the construction, installation, inspection, maintenance, repair, rebuilding, replacement or removal of the Pedestrian Walkway, Book-drop or Library. The temporary construction easements granted to CML pursuant to this Section shall terminate upon substantial completion of the Library. The easements granted pursuant to this Section are appurtenant to the Library Site Property and are subject to the following limitations:

² Note: proper time for City inspection to be determined.

(i) CML shall have the right to use the easements herein granted with respect to the Garage Property to the fullest extent necessary to accommodate the construction of the Pedestrian Walkway, Book-drop and/or Library even though the use of such easements may interfere with the ability to operate the Garage as a parking garage open to the general public; provided, however, CML and any subsequent owner of the Library Site Property shall use reasonable efforts to minimize interference with the operation of the Garage and to limit the duration of the same.

(ii) Such temporary easements shall be used in such manner as will not result in unreasonable interference with the use or operation of the Garage as a first class parking garage open to the general public.

(iii) Following completion of the Garage and except (A) prior to the time that the Library is open to the general public, and (B) in cases of emergency, CML shall use commercially reasonable efforts to notify the City in advance of CML's intended use of such temporary easements.

ARTICLE 4

Miscellaneous

4.01 Events of Default. In the event of a breach by any party to this Agreement in the performance of any of its obligations hereunder, the other party shall give written notice thereof to the breaching party. In the event that the breaching party fails to cure such breach within thirty (30) days after receipt of such notice (unless the breach is not susceptible of cure within such thirty (30) day period in the exercise of reasonable diligence, in which event such period shall be extended so long as the breaching party has commenced such cure and diligently pursues such cure to completion), then other party may deem such breach a default hereunder by notice to the breaching party, and such breaching party shall be in default under this Agreement and the other party shall have all rights and remedies available at law or in equity. In addition, in the event a Future Owner or any subsequent transferee of the Library Property is in monetary default hereunder for a period of more than thirty (30) consecutive days, the City may terminate such party's rights under this Agreement.

In addition to the foregoing, if CML deems the City to be in default under Section 2.02 above, CML may upon additional written notice to the City perform routine maintenance to the areas comprising the CML Parking Spaces, including cleaning, striping, light bulb replacement and similar maintenance, but specifically excluding capital repairs. Prior to taking any such action, CML shall provide to the City the liability insurance coverage described in Section 2.02. Within thirty days after receipt of that notice, representatives of the City and CML shall meet to discuss whether the City was, in fact, in default under Section 2.02 and resolve any disputes in connection with the potential default. The City and CML agree to work in good faith to resolve

any such dispute, including by means of mediation or arbitration, provided that each party reserves its right to seek relief at law or equity. If, by means of a mutually agreed dispute resolution process or by entry of a final un-appealable judgment by a court with jurisdiction over the matter finding the City to be in default under Section 2.02, the City shall reimburse CML for the reasonable out of pocket costs expended by CML in connection therewith to the extent attributable to that default after request therefor together with reasonable supporting documentation substantiating such costs are delivered by CML to the City. Notwithstanding anything to the contrary in this Agreement, if the City fails to pay such costs within thirty days after request, as set forth in the immediately preceding sentence, then CML shall be permitted to offset against any payments to be made hereunder until such costs incurred by CML are paid in full. CML shall also have the right to obtain specific performance of the City's obligations hereunder. The City hereby waives any right to defend against any action for specific performance on account of CML's self-help rights under this Agreement.

In the event CML is in monetary default hereunder for a period of more than thirty (30) consecutive days, such past due amounts shall accrue interest at an annual rate of three percent (3%) over the prime rate published in the Wall Street Journal from time to time. In the event CML is in default hereunder for a period of more than ninety (90) consecutive days, then (a) the Chief Financial Officer of CML and the City Manager of the City shall meet to resolve the issue or issues underlying such default, and thereafter (b) upon written notice to CML, the City shall be permitted to suspend CML's rights to use the CML Parking Spaces until such time as such monetary default is cured. Notwithstanding the foregoing, CML's rights to use the CML Parking Spaces shall not be suspended during any period in which CML has a good faith dispute relating to any such default, or alleged default, by CML hereunder.

4.02 Approvals. Where any approval is required hereunder, the party from whom such approval is required shall give such approval, or the reasons for disapproval shall be specified, in writing, as soon as possible but in any event within fifteen (15) days after the date of the request for approval.

4.03 As-Built Location. The easements granted hereby shall exist by virtue of this Agreement without necessity of confirmation by any other document. However, upon the request of any party hereto from time to time, each party will execute an addendum to this Agreement, in recordable form, memorializing the "as-built" location of the easement areas.

4.04 Restoration. If, as a result of the exercise of any easement rights created hereby, a party shall damage or disturb the improvements of another party, the party causing such damage or disturbance shall promptly repair and restore the property of such other party to, as nearly as possible, the condition existing prior to such damage or disturbance.

4.05 Extent of Covenants; No Personal Liability. All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized

and permitted by applicable law. No covenant, obligation or agreement of the Parties contained in this Agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or CML other than in his or her official capacity, and neither the members of the legislative body of the City or CML, nor any City or CML official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City and CML contained in this Agreement.

4.06 Duration. Except as otherwise provided herein, the easements herein granted are intended to be and are perpetual easements.

4.07 Legal Effect; Non-Merger. The grants, covenants, agreements and declarations contained herein shall be, and shall be deemed to be, covenants and not conditions and, to the fullest extent legally possible, shall be, and shall be deemed to be, covenants running with the land, shall be binding upon each present and future owner of the Library Site Property or the Garage Property, or any portion thereof or interest or estate therein, as applicable, and shall inure to the benefit of each present and future owner of the Library Site Property or the Garage Property, or any portion thereof or estate or interest therein, as applicable. All of the provisions of this Agreement with respect to the easements herein granted are for the mutual benefit and protection of the present and all future owners of the fee simple and leasehold (including subleasehold) estates in the Library Site Property or the Garage Property, as applicable; and if there should at any time be common ownership of any of said premises or estates therein, it is the intention of the parties that there shall be no merger nor shall the easements be extinguished thereby, unless the party acquiring common ownership shall express in a recorded instrument a specific intent to cause the merger thereof.

4.08 Notices. All notices and communications required or permitted to be given or delivered under this Agreement shall be given or delivered in writing and shall be given in person, by deposit in the United States mail, certified mail, return receipt requested, postage prepaid, or by overnight delivery with a nationally recognized overnight delivery service. Notices shall be effect on the date of receipt or refusal of receipt. Notice shall be delivered at the addresses set forth as follows or as a party may hereafter designate in writing:

To the City:

City of Dublin, Ohio
5200 Emerald Parkway
Dublin, Ohio 43017
Attn: City Manager

To CML:

Columbus Metropolitan Library
96 S. Grant Avenue
Columbus, Ohio 43215
Attention: CFO

4.09 Successors and Assigns. This Agreement and the rights and obligations hereunder shall, subject to the terms and conditions hereof, inure to the benefit of and be binding upon the respective successors and assigns (including successive, as well as immediate, successors and assigns) of the City and CML; provided, that CML may not assign its rights or obligations hereunder as they pertain to the CML Parking Spaces during the 20 year period in which CML has agreed to own and operate the Library as a public library pursuant to Section 2.09, and thereafter CML may only assign such rights pursuant to Section 2.10, provided that the Future Owner's rights and obligations with respect to the Future Owner Parking Spaces shall be assignable by Future Owner and Future Owner's successors and assigns for the benefit of the Library Site Property.

4.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

4.11 Duplicate Originals. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall constitute a single instrument. Signatures transmitted via e-mail (in .pdf format) or by other electronic means are deemed to be original signatures. A fully executed original of this Agreement shall be recorded in the Office of the Franklin County, Ohio Recorder.

4.12 Captions. The captions contained in this Agreement are for convenience of reference only and are not intended to affect the interpretation or construction of the provisions of this Agreement.

4.13 Amendment. No amendment, modification or alteration of this Agreement shall be valid unless in writing and signed by the parties hereto, and recorded in the Office of the Franklin County, Ohio Recorder.

4.14 No Partnership. Nothing contained in this Agreement and no action by CML or the City shall be deemed or construed to create an agency relationship, partnership, joint venture or other association between the City and CML.

4.15 Severability. If any provision of this Agreement or the application of any provision to any person or any circumstance shall be determined to be invalid or unenforceable, then such determination shall not affect any other provisions of this Agreement or the application

of said provision to any other person or circumstance, all of which other provisions shall remain in full force and effect.

4.16 Agreement for Exclusive Benefit of Parties. The provisions of this Agreement are for the exclusive benefit of the parties hereto and not for the benefit of any other person. Each party agrees, on behalf of itself and its successors and assigns, that each of its covenants contained in this Agreement are covenants running with the land and that they will, in any event and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by the City and CML, their successors and assigns.

4.17 Estoppel: At any time within thirty (30) days after receipt of written request from a party, the party receiving such request agrees to execute, acknowledge, and deliver a statement in writing, certifying all or any part as may be true of the following information:

- (i) That this Agreement constitutes the entire agreement between the City and CML with respect to those easement rights herein granted and is unmodified and, to such party's belief, in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications).
- (ii) The dates to which the Parking Maintenance Contribution has been paid.
- (iii) That the responding party knows of no default or breach under this Agreement (or if there is a default or breach, the specifics regarding such default or breach).

4.18 No Right to Encumber. CML acknowledges and agrees that it has no right to and shall not encumber the easement rights herein granted during the 20 year period in which CML has agreed to own and operate the Library as a public library pursuant to Section 2.08.

4.19 Use of CML Parking Spaces When Not In Use by CML. Upon City's request, CML agrees to work with the City to make certain of the CML Parking Spaces temporarily available to the public when CML is not using, and does not anticipate using, such parking spaces. Notwithstanding the foregoing, CML shall at all times have first priority and use of the CML Parking Spaces and shall have no obligation to relinquish use of any CML Parking Spaces unless, in CML's sole discretion, CML agrees to such temporary reduction.

4.20 The City's Obligations. The City's financial obligations under this Agreement do not constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of Ohio, and CML does not have the right to have taxes or excises levied by the City for the payment of any amount owed by the City hereunder. Nothing herein will be deemed to prohibit the City from using, of its own volition, any other lawfully available resources for the fulfillment of any of the City's obligations hereunder. The parties acknowledge

that Ohio law limits the City to appropriating monies for such obligations only on an annual basis. Notwithstanding the foregoing and subject to any limitations imposed by Section 5705.41 of the Ohio Revised Code or other law, any failure by the City to satisfy its financial or other obligations under this Agreement shall be a breach hereunder and CML shall be entitled to exercise all remedies available to it as provided in Section 4.01 hereof.

4.21 Articulation of Intent.

(a) Background. CML, the City and the Dublin City School District ("DCSD") have enjoyed a long and cooperative relationship. Such parties worked in concert to establish the current CML branch library facility and surface parking facility on assembled real property comprising 3.599 acres, which previously comprised the site of the library. CML desires to replace the current facilities on the Library Property, comprised of approximately 42,500 square feet, at a cost of approximately \$17,400,000, and with sufficient parking to meet the Library's parking requirements. The City has determined that it requires from the assembled real property (i) approximately 0.63 acres for Rock Cress, a new, dedicated public street, (ii) approximately 0.29 acres for green space north of such street, (iii) approximately 0.10 acres for the Franklin Street roadway, and (iv) approximately 0.05 acres for the North Street roadway (items (i), (iii) and (iv) are collectively referred to herein as the "Road Property"). The construction of Rock Cress and the improvement of Franklin and North Streets will improve access to the Library. It is more efficient for the remainder of the Library Property to be developed as a Parking Garage serving the Library and general public in lieu of a surface parking facility sufficient only to meet the parking needs of the Library. As a solution, the City generally proposes that CML convey to the City the Garage Property and Road Property, upon which the City, using predominately City funds, would construct roadway improvements and a Parking Garage to provide parking for the Library and additional public parking for the current and future parking demands in the immediate area. To enable the City proposal, the City has negotiated an arrangement with such DCSD to release the Garage Property as well as the Road Property from DCSD's restriction of record.

(b) Mutual Benefit. CML and the City acknowledge that each would benefit from the joint proposal. CML would have improved access to, and sufficient parking in the Garage for, the Library and the City would have title to the Garage Property and the Road Property allowing the City to build necessary roadway and public parking in the Garage for the benefit of the general public. Further, CML acknowledges that the Garage would not be constructed without the City funding and the City acknowledges that the roadway and greenspace improvements and construction of the Garage for public parking would not be constructed at this time without CML's desire to expand and redevelop the current Library and the conveyance to the City by CML of the required real property for the Road Property and Garage.

(c) Long-Lived Assets; Future Circumstances. CML and the City acknowledge that both the Library and Garage are long-lived assets, the use and operation of which may be profoundly affected by future circumstances; to name a few: changes in parker behavior, parking demand, parking economics, the need for parking revenues to operate and maintain the Garage, market support for pay-parking , parking technology and autonomous vehicles. Further, such future circumstances and the effects therefrom, are probable, beyond current understanding and incapable of being anticipated and comprehensively addressed by this perpetual Agreement. Thus, by necessity, CML and the City acknowledge that this Agreement will need to evolve to address future circumstances and to give full effect to the declared intentions of the parties.

(d) Declaration of Intent. In the interpretation of this Agreement, and with a view to the evolution of this Agreement in response to future circumstances, CML and the City generally declare their mutual intent that the CML Parking Spaces shall be available as and when required for use by the CML Permittees and, to the extent not so required, the CML Parking Spaces shall be available for public parking.

(e) Undertaking of Good Faith. In the performance and observance of this Agreement and in the face of future circumstances requiring the evolution of this Agreement to give full effect to the declared intentions of the Parties, to each undertake and agree to render to the other absolute Good Faith in all regards.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the date written above.

THE CITY OF DUBLIN, OHIO

By: _____
Dana McDaniel, City Manager

Approved as to form for the City:

Jennifer Readler, Law Director

**THE BOARD OF TRUSTEES OF THE
COLUMBUS METROPOLITAN LIBRARY**

By: _____
Patrick Losinski, Chief Executive Officer

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Dana McDaniel, City Manager of the CITY OF DUBLIN, OHIO, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio and its Charter, on behalf of the City.

Notary Public: _____
My Commission Expires: _____

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Patrick Losinski, CEO of THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code, on behalf of the Library.

Notary Public: _____
My Commission Expires: _____

This instrument prepared by:
Squire Patton Boggs (US) LLP
Gregory R. Daniels, Esq.
2000 Huntington Center
41 South High Street
Columbus, Ohio 43215
(614) 365-2700

Exhibit A

Depiction of the Library Site Property, the Garage Property, the Pedestrian Walkway Easement Area and the Book-drop Easement Area

[Maps to be attached that depict and describe (with clear labeling) the Library Site Property, the Garage Property and the Pedestrian Walkway Easement Area]

Exhibit B

CML Parking Spaces

[A diagram of the Garage to be attached that depict the location of the CML Parking Spaces]

Exhibit C

Legal Description of the Library Site Property

[to be inserted upon finalization of plat]

Exhibit D

Legal Description of the Garage Property

[to be inserted upon finalization of plat]

EXHIBIT D

FORM OF PURCHASE OPTION AGREEMENT – GARAGE PROPERTY

[TO BE ATTACHED]

Exhibit D Form of
CML'S OPTION TO PURCHASE REAL ESTATE

THIS OPTION TO PURCHASE REAL ESTATE (this "Agreement") is made and entered this _____ day of _____, 2017, by and between the CITY OF DUBLIN, OHIO (the "City"), a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio (the "State") and its Charter, and THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code ("CML" and together with the City, the "Parties"), under the circumstances summarized in the following recitals.

RECITALS:

WHEREAS, CML and the City have agreed to work cooperatively to help facilitate the development of a new Dublin branch library by CML (the "Library") on the real property identified on Exhibit A as the "Library Site Property" and legally described on Exhibit B (the "Library Site Property"), in accordance with the terms of the Development Agreement by and between the City and CML dated as of _____, 2017 (the "Development Agreement").

WHEREAS, the City has agreed to construct a new parking structure (the "Garage") on the real property identified on Exhibit A as the "Garage Property" and legally described on Exhibit C (the "Garage Property"), which Garage is currently estimated at no less than 475 spaces, subject to finalization of plans, specifications and budget and in accordance with the terms of the Development Agreement, to serve the new Library as well as the public parking needs of the Dublin Historic District area.

WHEREAS, pursuant to the terms of the Development Agreement, CML is conveying fee title to the Garage Property to the City and the City is conveying certain parking rights in the Garage Property to CML.

WHEREAS, the CML desires to obtain an option to purchase Garage Property and the improvements located thereon owned by the City when and if the City desires to sell, convey or transfer the Garage Property.

WHEREAS, the City agrees to grant CML an option to purchase the Garage Property and the improvements located thereon pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing, of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree to the foregoing and as follows:

1. Grant of Option. The City does hereby grant to the CML an irrevocable one-time right and option (the "Option"), to purchase the Garage Property and the improvements located thereon upon the terms and conditions hereinafter set forth.

2. CML's Option to Purchase. In the event the City desires to sell the Garage Property, the City shall give CML notice thereof prior to selling the property to any other party. CML shall have Seventy-Five (75) days from receipt of written notice from the City of such desire to sell to give written notice to the City ("Purchase Notice") of its exercise of the Option to purchase the Garage Property and the improvements located thereon. If the City fails to deliver the Purchase Notice to the City within such Seventy-Five (75) day period, then CML shall be deemed to have elected not to exercise the Option and to have instead waived its right to purchase the Garage Property and the improvements located thereon, the Option shall thereupon be null, void and of no further force or effect, and the City shall thereupon be permitted to sell the Library Site Property to any person or entity on any terms it deems appropriate.

Within three (3) business days after the City notifies CML of the City's desire to sell the Garage Property, the City shall provide to CML a list and copies of all executory contracts (the "Executory Contracts"), such as parking space leases, service contracts, parking management contracts, etc., for review by CML as part of its due diligence.

3. Terms of Purchase. In the event CML timely exercises its Option pursuant to the terms of this Agreement, the terms of the purchase and sale of the Garage Property shall be as follows:

(a) The purchase price for the Garage Property and the improvements located thereon ("Purchase Price") shall be determined as follows:

- (i) Within ten (10) days after the City's receipt of CML's Purchase Notice, the City and CML shall each select and notify the other of a property appraiser of their choosing, provided each such appraiser must have at least ten (10) years' experience in the Central Ohio market, and each such appraiser shall provide an appraisal as to the fair market value of the Garage Property.
- (ii) The appraisals prepared by the City's and CML's appraisers shall be delivered to both the City and CML within thirty (30) days after the City's receipt of the Purchase Notice. In the event that either the City or CML does not deliver to the other party, by notice, a copy of the appraisal required under Section 3(a)(i) within such thirty (30) day period, then the Purchase Price shall be the fair market value of the Garage Property as stated in the appraisal which was timely provided pursuant to this Section 3(a)(ii). In the event that neither party hereto delivers their appraisal within the period set forth in this Section 3(a)(ii), then CML shall be deemed to have not exercised the Option and to have instead waived its right to purchase the Garage Property, the Option shall thereupon be null, void and of no further force or effect, and the City shall thereafter be permitted to sell the Garage Property to any person or entity on any terms it deems appropriate.

- (iii) If the City and CML each timely deliver, by notice to the other, their respective appraisals as required hereunder, and the fair market value of the Garage Property set forth in each appraisal is within ten percent (10%) of the fair market value set forth in the other appraisal, then the Purchase Price shall be the average of the fair market values set forth in the two appraisals.
- (iv) If CML and the City each timely delivers its respective appraisal to the City and CML as required hereunder, and the fair market value of the Garage Property set forth in each appraisal is not within ten percent (10%) of the fair market value set forth in the other appraisal, then, within ten (10) days after receipt of the appraisals, the City and CML shall mutually agree upon and select a third appraiser. If the City and CML are unable to mutually agree on a third appraiser within such ten (10) day period, then the two (2) appraisers selected pursuant to Section 3(a)(i) above shall mutually select such third appraiser within ten (10) days thereafter. The third appraiser shall review the appraisal provided by the City's appraiser and CML's appraiser and, within fifteen (15) days after being selected by the parties hereto, shall choose which of the two appraisals most closely reflects the fair market value of the Garage Property in such third appraiser's professional opinion, and provide written notice to the City and CML thereof within such fifteen (15) day period. The fair market value so selected by the third appraiser shall be the Purchase Price. For the avoidance of doubt, the third appraiser shall only be permitted to choose between (x) the fair market value of the Garage Property as determined by the City's appraiser, and (y) the fair market value of the Library Site Property as determined by the CML's appraiser. The third appraiser shall not be permitted to average the first two appraisals or otherwise choose a different fair market value from those set forth in either of the two appraisals.
- (v) The determination of the fair market value in accordance with the provisions of this Section 3 shall be conclusive on the parties. All designated appraisers hereunder shall hold the MAI designation and shall determine the fair market value consistent with the Uniform Standards of Professional Appraisal Practice.
- (vi) The City shall be responsible for paying all fees charged by its appraiser and shall pay fifty percent (50%) of the fees charged by the third appraiser (if the third appraiser is required). CML shall be responsible for paying all fees charged by its appraiser and shall pay fifty percent (50%) of the fees charged by the third appraiser (if the third appraiser is required).

(b) The closing of the purchase and sale of the Garage Property (the "Closing") shall occur within one hundred twenty (120) days after CML's exercise of the Purchase Notice, at a time and place mutually acceptable to the City and CML. The Closing shall occur on such other terms and conditions as are set forth in this Agreement.

(c) The City's Closing Deliveries. At Closing, the City shall (i) convey good and marketable fee simple title to the Garage Property to CML by limited warranty deed, subject to all easements, liens, claims and encumbrances of record, or otherwise affecting the Garage Property (except that the City shall pay and cause to be released at or prior to Closing any mortgages, financing documents, judgment liens and similar liens incurred by the City which encumber the Garage Property); (ii) an assignment of all Executory Contracts (provided, however, that all Executory Contracts to be assigned by the City shall be on arms' length terms and conditions); and (iii) deliver to CML a non-foreign affidavit and vendor's affidavit in form reasonably acceptable to CML and CML's title insurance company.

(d) City's Closing Deliveries. At Closing, CML shall pay to the City the Purchase Price via immediately available wire transfer.

(e) Closing Costs. CML will pay all closing costs, including the cost of title insurance, the cost of preparation and recording of closing documents, conveyances fees, and other fees associated with the transfer of the Garage Property.

(f) Closing Prorations. All real property taxes, if any, on the Garage Property that have accrued for any calendar year prior to the calendar year of Closing and that remain unpaid shall be paid by the City in the form of a credit against the Purchase Price at Closing. All real property taxes that have accrued for the current calendar year shall be prorated as of the date of Closing, based on the most recent available tax statement, and the portion attributable to the City shall be credited against the Purchase Price at Closing. All utility charges, special assessments against the Garage Property, and sewer and storm water fees, shall be prorated as of the date of Closing, and the portion attributable to the City shall be credited against the Purchase Price at Closing. Additionally, all rental, license fees and similar amounts payable under the Executory Contracts shall be prorated as of Closing. All such prorations shall be final and not subject to further adjustment.

4. Title and Survey. In the event CML elects to exercise its Option, CML at its election may obtain a title insurance commitment issued by CML's selected title company. Additionally, the City recognizes that CML may wish, at CML's expense, to have a new ALTA survey for the Garage Property prepared. In the event CML causes such survey to be prepared, CML shall cause such survey to be certified to CML, the City and the title company selected by CML. In such event, and subject to approval of the title company, CML may elect by notice to the City not less than five (5) business days prior to Closing, to have the City convey Garage Property to CML using the legal description set forth in such survey.

5. CML's Agreement to Take "AS IS." CML represents to the City that CML knows or will know, has examined or will examine, and has investigated or will investigate in accordance with the terms of this Agreement to the full satisfaction of CML the physical nature

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

12. Entire Agreement. This Agreement contains the entire agreement between the parties regarding the subject matter hereof, and may be amended only by written agreement signed by both the City and CML.

13. Severability. If any provision of this Agreement is deemed to be invalid, illegal or unenforceable, the remainder of this Agreement shall be unaffected and remain in full force and effect.

14. Non-Assumption of Liabilities. Except for the Executory Contracts to be assigned at Closing in accordance with the terms hereof, CML shall not assume, pay or perform any liabilities or obligations of the City of any kind whatsoever, known or unknown, contingent or accrued, including, but not limited to, any tort liabilities of the City or any other obligations of the City resulting from, or in any way connected with, the City's ownership of the Garage Property prior to the Closing.

15. Risk of Loss. In the event of any casualty or loss with respect to the Garage Property prior to Closing, the City shall give CML immediate notice thereof and CML shall elect, within ten (10) days thereafter, to either (i) terminate this Agreement, in which event neither party shall have any further liability or obligation for any matter thereafter arising hereunder, or (ii) proceed to Closing, in which event all insurance proceeds of the City as to the Garage Property shall be assigned to CML at Closing. CML's failure to make such election within such period shall be deemed an election by CML to proceed to Closing in accordance with (ii) above.

THE CITY OF DUBLIN, OHIO

By: _____
Dana McDaniel, City Manager

Approved as to form for the City:

Jennifer Readler, Law Director

**THE BOARD OF TRUSTEES OF THE
COLUMBUS METROPOLITAN LIBRARY**

By: _____
Patrick Losinski, Chief Executive Officer

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Dana McDaniel, City Manager of the CITY OF DUBLIN, OHIO, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio and its Charter, on behalf of the City.

Notary Public: _____
My Commission Expires: _____

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Patrick Losinski, CEO of THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code, on behalf of the Library.

Notary Public: _____
My Commission Expires: _____

EXHIBIT A

EXHIBIT B
Legal Description of the Library Site Property

EXHIBIT C
Legal Description of the Garage Property

EXHIBIT E

**FORM OF PURCHASE OPTION AGREEMENT – REMAINING LIBRARY
PROPERTY**

[TO BE ATTACHED]

Exhibit E Form of
THE CITY'S OPTION TO PURCHASE REAL ESTATE

THIS OPTION TO PURCHASE REAL ESTATE (this "Agreement") is made and entered this _____ day of _____, 2017, by and between the CITY OF DUBLIN, OHIO (the "City"), a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio (the "State") and its Charter, and THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code ("CML" and together with the City, the "Parties"), under the circumstances summarized in the following recitals.

RECITALS:

WHEREAS, CML and the City have agreed to work cooperatively to help facilitate the development of a new Dublin branch library by CML (the "Library") on the real property identified on Exhibit A as the "Library Site Property" and legally described on Exhibit B (the "Library Site Property"), in accordance with the terms of the Development Agreement by and between the City and CML dated as of _____, 2017 (the "Development Agreement").

WHEREAS, the City has agreed to construct a new parking structure (the "Garage") on the real property identified on Exhibit A as the "Garage Property" and legally described on Exhibit C (the "Garage Property"), which Garage is currently estimated at no less than 475 spaces, subject to finalization of plans, specifications and budget and in accordance with the terms of the Development Agreement, to serve the new Library as well as the public parking needs of the Dublin Historic District area.

WHEREAS, pursuant to the terms of the Development Agreement, CML is conveying fee title to the Garage Property to the City and the City is conveying certain parking rights in the Garage Property to CML.

WHEREAS, the City desires to obtain an option to purchase Library Site Property and the improvements located thereon owned by CML when and if CML discontinues the operation of a library on the Library Site Property and the Board of Education of Dublin Local School District ("DCSD") does not exercise its option to purchase the Library Site Property.

WHEREAS, CML agrees to grant the City an option to purchase the Library Site Property and the improvements located thereon pursuant to the terms of this Agreement.

WHEREAS, the Library Site Property is subject to a purchase option in favor of DCSD pursuant to a restriction of record (Franklin County Recorder Vol. 3759, Page 134), which option (the "DSCD Option") states in pertinent part as follows:

[I]f the premises are no longer used as a public library, the premises shall be offered for sale to the Grantor [DCSD] and the Grantor [DCSD] shall have, for thirty days following the date the premises are offered for sale, an option to indicate whether or not it will purchase the premises. If the Grantor [DCSD]

elects to purchase the premises, it will have an additional ninety days to complete the purchase of the premises.

NOW, THEREFORE, in consideration of the foregoing, of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree to the foregoing and as follows:

1. Grant of Option. CML does hereby grant to the City, subject to the DCSD Option, an irrevocable one-time right and option (the "Option"), to purchase the Library Site Property and the improvements located thereon upon the terms and conditions hereinafter set forth.

2. City's Option to Purchase. In the event DCSD has not exercised the DCSD Option, or DCSD has given notice to CML that it will not exercise the DCSD Option, then CML shall give the City written notice thereof, and the City shall have a seventy-five (75) day period from receipt of such notice from CML to give written notice to CML of the City's election to exercise its Option to purchase the Library Site Property and the improvements thereon in accordance with the terms of this Agreement. If the City fails to deliver the Purchase Notice to CML within such seventy-five (75) day period, then the City shall be deemed to have elected not to exercise the Option and to have instead waived its right to purchase the Library Site Property and the improvements located thereon, the Option shall thereupon be null, void and of no further force or effect, and CML shall thereupon be permitted to sell the Library Site Property to any person or entity on any terms it deems appropriate.

Within three (3) business days after CML notifies the City of CML's desire to sell the Library Site Property, CML shall provide to the City a list and copies of all executory contracts (the "Executory Contracts"), such as service contracts, management contracts, etc., for review by the City as part of its due diligence.

3. Terms of Purchase. In the event the City timely exercises its Option pursuant to the terms of this Agreement, the terms of the purchase and sale of the Library Site Property shall be as follows:

(a) The purchase price for the Library Site Property and the improvements located thereon ("Purchase Price") shall be determined as follows:

- (i) Within ten (10) days after CML's receipt of the City's Purchase Notice, CML and the City shall each select and notify the other of a property appraiser of their choosing, provided each such appraiser must have at least ten (10) years' experience in the Central Ohio market, and each such appraiser shall provide an appraisal as to the fair market value of the Library Site Property.
- (ii) The appraisals prepared by CML's and the City's appraisers shall be delivered to both CML and the City within thirty (30) days after CML's receipt of the Purchase Notice. In the event that either

CML or the City does not deliver to the other party, by notice, a copy of the appraisal required under Section 3(a)(i) within such thirty (30) day period, then the Purchase Price shall be the fair market value of the Library Site Property as stated in the appraisal which was timely provided pursuant to this Section 3(a)(ii). In the event that neither party hereto delivers their appraisal within the period set forth in this Section 3(a)(ii), then the City shall be deemed to have not exercised the Option and to have instead waived its right to purchase the Library Site Property, the Option shall thereupon be null, void and of no further force or effect, and CML shall thereafter be permitted to sell the Library Site Property to any person or entity on any terms it deems appropriate.

- (iii) If CML and the City each timely deliver, by notice to the other, their respective appraisals as required hereunder, and the fair market value of the Library Site Property set forth in each appraisal is within ten percent (10%) of the fair market value set forth in the other appraisal, then the Purchase Price shall be the average of the fair market values set forth in the two appraisals.
- (iv) If CML and the City each timely delivers its respective appraisal to CML and the City as required hereunder, and the fair market value of the Library Site Property set forth in each appraisal is not within ten percent (10%) of the fair market value set forth in the other appraisal, then, within ten (10) days after receipt of the appraisals, CML and the City shall mutually agree upon and select a third appraiser. If CML and the City are unable to mutually agree on a third appraiser within such ten (10) day period, then the two (2) appraisers selected pursuant to Section 3(a)(i) above shall mutually select such third appraiser within ten (10) days thereafter. The third appraiser shall review the appraisal provided by CML's appraiser and the appraisal provided by the City's appraiser and, within fifteen (15) days after being selected by the Parties hereto, shall choose which of the two appraisals most closely reflects the fair market value of the Library Site Property in such third appraiser's professional opinion, and provide written notice to CML and the City thereof within such fifteen (15) day period. The fair market value so selected by the third appraiser shall be the Purchase Price. For the avoidance of doubt, the third appraiser shall only be permitted to choose between (x) the fair market value of the Library Site Property as determined by CML's appraiser, and (y) the fair market value of the Library Site Property as determined by the City's appraiser. The third appraiser shall not be permitted to average the first two appraisals or otherwise choose a different fair market value from those set forth in either of the two appraisals.

- (v) The determination of the fair market value in accordance with the provisions of this Section 3 shall be conclusive on the Parties. All designated appraisers hereunder shall hold the MAI designation and shall determine the fair market value consistent with the Uniform Standards of Professional Appraisal Practice.
- (vi) CML shall be responsible for paying all fees charged by its appraiser and shall pay fifty percent (50%) of the fees charged by the third appraiser (if the third appraiser is required). The City shall be responsible for paying all fees charged by its appraiser and shall pay fifty percent (50%) of the fees charged by the third appraiser (if the third appraiser is required).

(b) The closing of the purchase and sale of the Library Site Property (the "Closing") shall occur within one hundred twenty (120) days after the City's exercise of the Purchase Notice, at a time and place mutually acceptable to CML and the City. The Closing shall occur on such other terms and conditions as are set forth in this Agreement.

(c) CML's Closing Deliveries. At Closing, CML shall (i) convey good and marketable fee simple title to the Library Site Property to the City by limited warranty deed, subject to all easements, liens, claims and encumbrances of record, or otherwise affecting the Library Site Property (except that CML shall pay and cause to be released at or prior to Closing any mortgages, financing documents, judgment liens and similar liens incurred by CML which encumber the Library Site Property); (ii) execute an assignment of all Executory Contracts (provided, however, that all Executory Contracts to be assigned by the City shall be on arms' length terms and conditions); and (iii) deliver to the City a non-foreign affidavit and vendor's affidavit in form reasonably acceptable to the City and the City's title insurance company.

(d) City's Closing Deliveries. At Closing, the City shall pay to CML the Purchase Price via immediately available wire transfer.

(e) Closing Costs. The City will pay all closing costs, including the cost of title insurance, the cost of preparation and recording of closing documents, conveyances fees, and other fees associated with the transfer of the Library Site Property.

(f) Closing Prorations. All real property taxes, if any, on the Library Site Property that have accrued for any calendar year prior to the calendar year of Closing and that remain unpaid shall be paid by CML in the form of a credit against the Purchase Price at Closing. All real property taxes that have accrued for the current calendar year shall be prorated as of the date of Closing, based on the most recent available tax statement, and the portion attributable to CML shall be credited against the Purchase Price at Closing. All utility charges, special assessments against the Library Site Property, and sewer and storm water fees, shall be prorated as of the date of Closing, and the portion attributable to CML shall be credited against the Purchase Price at Closing. Additionally, all rental, license fees and similar amounts payable under the Executory

Contracts shall be prorated as of Closing. All such prorations shall be final and not subject to further adjustment.

4. Title and Survey. In the event the City elects to exercise its Option, the City at its election may obtain a title insurance commitment issued by the City's selected title company. Additionally, CML recognizes that the City may wish, at the City's expense, to have a new ALTA survey for the Library Site Property prepared. In the event the City causes such survey to be prepared, the City shall cause such survey to be certified to the City, CML, and the title company selected by the City. In such event, and subject to approval of the title company, the City may elect by notice to CML not less than five (5) business days prior to Closing, to have CML convey the Library Site Property to the City using the legal description set forth in such survey.

5. City's Agreement to Take "AS IS." The City represents to CML that the City knows or will know, has examined or will examine, and has investigated or will investigate in accordance with the terms of this Agreement to the full satisfaction of the City the physical nature and condition of the Library Site Property, the improvements thereon, and the appurtenances thereto, to be transferred to the City hereunder; that neither CML nor any agent, attorney, employee, or representative have made any representation whatsoever regarding the subject matter of this sale, or any part thereof, including (without limiting the generality of the foregoing) representations as to the physical nature or condition of the Library Site Property and improvements to be transferred to the City hereunder; and that the City, in executing, delivering, and/or performing its duties and obligations under this Agreement, does not rely upon any statement and/or information to whomsoever made or given, directly or indirectly, verbally or in writing, by any individual, firm, or corporation as to the physical nature and condition of the Library Site Property. The City agrees to take title to the Library Site Property and improvements in their then existing "AS IS" condition.

6. Possession. The City shall take possession of the Library Site Property at Closing.

7. Broker's Fee. CML and the City acknowledge that no brokers, realtors or finders are due any brokerage fees, commissions, or other fees arising out of this transaction or any transaction relating to the conveyance of the Library Site Property to the City pursuant to the City's exercise of its Option and neither shall incur any liability or obligation on account of the acts of the other Party.

8. Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of the Parties hereto, their respective heirs, legal representatives, successors and assigns and run with the land.

9. Recording. The City and CML agree that this Agreement shall be recorded in the Franklin County, Ohio Recorder's Office.

10. 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 served if (a) deposited in the United States Mail, by certified or registered mail, postage prepaid,

return receipt requested, (b) sent by nationally recognized overnight delivery service, or (c) hand delivered, addressed to the other Party as follows:

If to CML: Columbus Metropolitan Library
96 S. Grant Avenue
Columbus, Ohio 43215
Attention: CFO

or such other address or addresses as CML may hereinafter designate by written notice to the City. Any notice to be served on the City shall be addressed as follows:

If to City: City of Dublin, Ohio
5200 Emerald Parkway
Dublin, Ohio 43017
Attn: City Manager

or such other address or addresses as the City may hereinafter designate by written notice to CML. All notices shall be deemed effective upon receipt or refusal of receipt.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

12. Entire Agreement. This Agreement contains the entire agreement between the parties regarding the subject matter hereof, and may be amended only by written agreement signed by both the City and CML.

13. Severability. If any provision of this Agreement is deemed to be invalid, illegal or unenforceable, the remainder of this Agreement shall be unaffected and remain in full force and effect.

14. Non-Assumption of Liabilities. Except for the Executory Contracts to be assigned at Closing in accordance with the terms hereof, the City shall not assume, pay or perform any liabilities or obligations of CML of any kind whatsoever, known or unknown, contingent or accrued, including, but not limited to, any tort liabilities of CML or any other obligations of CML resulting from, or in any way connected with, CML's ownership of the Library Site Property prior to the Closing.

15. Risk of Loss. In the event of any casualty or loss with respect to the Library Site Property prior to Closing, CML shall give the City immediate notice thereof and the City shall elect, within ten (10) days thereafter, to either (i) terminate this Agreement, in which event neither party shall have any further liability or obligation for any matter thereafter arising hereunder, or (ii) proceed to Closing, in which event all insurance proceeds of CML as to the Library Site Property shall be assigned to the City at Closing. The City's failure to make such election within such period shall be deemed an election by the City to proceed to Closing in accordance with (ii) above.

THE CITY OF DUBLIN, OHIO

By: _____
Dana McDaniel, City Manager

Approved as to form for the City:

Jennifer Readler, Law Director

**THE BOARD OF TRUSTEES OF THE
COLUMBUS METROPOLITAN LIBRARY**

By: _____
Patrick Losinski, Chief Executive Officer

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Dana McDaniel, City Manager of the CITY OF DUBLIN, OHIO, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of Ohio and its Charter, on behalf of the City.

Notary Public: _____
My Commission Expires: _____

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Patrick Losinski, CEO of THE BOARD OF TRUSTEES OF THE COLUMBUS METROPOLITAN LIBRARY, a county district library duly organized and validly existing under Chapter 3375 of the Ohio Revised Code, on behalf of the Library.

Notary Public: _____
My Commission Expires: _____

EXHIBIT A

EXHIBIT B
Legal Description of the Library Site Property

EXHIBIT C
Legal Description of the Garage Property