



Prepared: 09/09/2016
Introduced: 09/20/2016
Revised:
Adopted:
Effective:

ORDINANCE O-32-2016

AN ORDINANCE TO AMEND CHAPTER 1125.06 "COMPLIANCE WITH NEW ALBANY COMMUNITY AUTHORITY" OF THE CITY OF NEW ALBANY, OHIO'S CODIFIED ORDINANCES

WHEREAS, it has been found that the Codified Ordinances of the City of New Albany, Chapter 1125.06, needs to be amended; and

WHEREAS, the following amendment will expand the applicability of this provision to any community authorities established within the city; and

WHEREAS, the Planning Commission has held a public hearing and received public input into the amendment of the codified ordinance; and

WHEREAS, the Planning Commission recommended approval of the proposed amendment to the codified ordinance.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The Codified Ordinance Chapter 1125.06 be amended to "Compliance With Any Existing New Community Authority" (labeled Exhibit A) as requested by the City of New Albany.

Section 2: That it is hereby found and determined that all formal actions of this council concerning and relating to passage of this ordinance were adopted in an open meeting of the Council and that all deliberations of this council and any of the decision making bodies of the City of New Albany which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the City of New Albany, Franklin and Licking Counties, Ohio.

Section 3. Pursuant to Article VI, Section 6.07(a) of the charter of the City of New Albany, this Ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2016.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED

1125.06 COMPLIANCE WITH ANY EXISTING NEW ALBANY COMMUNITY AUTHORITY.

(a) The Municipality shall not enact any legislation accepting the following territory for annexation under Ohio R.C. 709.04 until there has been compliance with the following requirements relating to any existing New Community Authority established within the Municipality pursuant to Ohio Revised Code Chapter 349~~the New Albany Community Authority~~ (the applicable “Authority”):

(1) If the newly annexed area is greater than seven acres and the current use is agricultural or residential, the property shall be irrevocably added to the applicable Authority, such addition effective upon annexation, but shall not be subject to any community development charge levied by the applicable Authority until such time as the property or property owner requests and is granted a rezoning to a higher use.

(2) If the current use of the newly annexed area is other than agricultural or residential, regardless of its size, the property shall be irrevocably added to the applicable Authority, such addition effective upon annexation, and thereafter shall be subject to any community development charge levied by the applicable Authority.

(b) If the newly annexed area is seven acres or less and the current use is agricultural or residential, the Municipality shall not enact any legislation rezoning the territory to a higher use until there has been compliance with this requirement relating to the applicable Authority: The property shall be irrevocably added to the applicable Authority at the time of and effective upon rezoning to a higher use, and thereafter shall be subject to any community development charge levied by the applicable Authority.

(Ord. 1-96. Passed 1-23-96; Ord. O-1-2012. Passed 1-24-12.)



Prepared: 09/23/2016
Introduced: 10/04/2016
Revised:
Adopted:
Effective:

ORDINANCE O-33-2016

AN ORDINANCE TO ACCEPT A 0.522 ACRE TRACT OF LAND FROM THE HEATH NEWARK LICKING COUNTY PORT AUTHORITY FOR THE PURPOSE OF PUBLIC RIGHT OF WAY

WHEREAS, the 0.522 tract of land is generally located along the north side of Innovation Campus Way, west of Harrison Road; and

WHEREAS, the land parcel from which this dedication will be granted was created when right of way for Innovation Campus Way was dedicated to the City of New Albany by the Heath Newark Licking County Port Authority; and

WHEREAS, the Heath Newark Licking County Port Authority has determined that this 0.522 acre tract of land is undevelopable and of *de minimis* value.

WHEREAS, the city will benefit from this dedication of additional right of way.

NOW, THEREFORE, BE IT RESOLVED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The City Manager is hereby authorized to accept a 0.522 acre donation of land from the Heath Newark Licking County Port Authority for the purposes of public right of way as depicted on Exhibit A.

Section 2. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations were in meetings open to the public in compliance with all legal requirements of the Municipality of New Albany, Franklin and Licking Counties, Ohio.

Section 3. Pursuant to Article VI, Section 6.07(a) of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2016.

Attest:

Sloan T. Spalding
Mayor

Jennifer H Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED

Exhibit A

0.522 ACRE

Situated in the State of Ohio, County of Licking, City of New Albany, in Lot 17, Quarter Township 2, Township 2, Range 15, United States Military Lands, being part of that 221.034 acre tract of land conveyed to Heath-Newark-Licking County Port Authority by deed of record in Instrument Number 201408210016049 (all references are to the records of the Recorder's Office, Licking County, Ohio) and more particularly bounded and described as follows:

BEGINNING, for reference, at a magnetic nail set at the northeasterly corner of Innovation Campus Way, as shown in Instrument Number 201508180017452, the southeasterly corner of that 12.035 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 201601130000642, in the centerline of Harrison Road (County Road 26) and the line common to Lots 17 and 16;

thence North $86^{\circ} 40' 21''$ West, with the southerly line of said 12.035 acre tract, a distance of 30.51 feet to an iron pin set in the northerly right-of-way line of said Innovation Campus Way, the TRUE POINT OF BEGINNING for this description;

thence with said northerly right-of-way line and with the arc of a curve to the right, having a central angle of $78^{\circ} 27' 47''$, a radius of 25.00 feet, an arc length of 34.24 feet, a chord bearing of South $54^{\circ} 05' 46''$ West and chord distance of 31.62 feet to an iron pin set;

thence North $86^{\circ} 40' 21''$ West, with said northerly right-of-way line, a distance of 1118.61 feet to an iron pin set;

thence North $03^{\circ} 34' 06''$ East, crossing said 221.034 acre tract, a distance of 20.00 feet to a 5/8 inch rebar with cap stamped "J&H 7830" found at the southeasterly corner of that 5.516 acre tract conveyed to Smith Mill Road, LLC by deed of record in Instrument Number 201502250003371, the southwesterly corner of said 12.035 acre tract;

thence South $86^{\circ} 40' 21''$ East, with the southerly line of said 12.035 acre tract, a distance of 1143.02 feet to the TRUE POINT OF BEGINNING, containing 0.522 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

The bearings herein are based on the Ohio State Plane Coordinate System, South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected Franklin County Engineering Department Monuments FRANK 80 and Frank 180. The portions of the centerline of Beech Road, having a bearing of North $03^{\circ} 25' 04''$ East, is designated the "basis of bearing" for this description.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Matthew A. Kirk
Professional Surveyor No. 7865

Date



Evans, Mechwart, Hambleton & Tilton, Inc.
 Engineers • Surveyors • Planners • Scientists
 5500 New Albany Road, Columbus, OH 43054
 Phone: 614.775.4500 Tall Free: 888.775.3648

emht.com

SURVEY OF ACREAGE PARCEL

LOT 17, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15
 UNITED STATES MILITARY LANDS
 CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: September 22, 2016

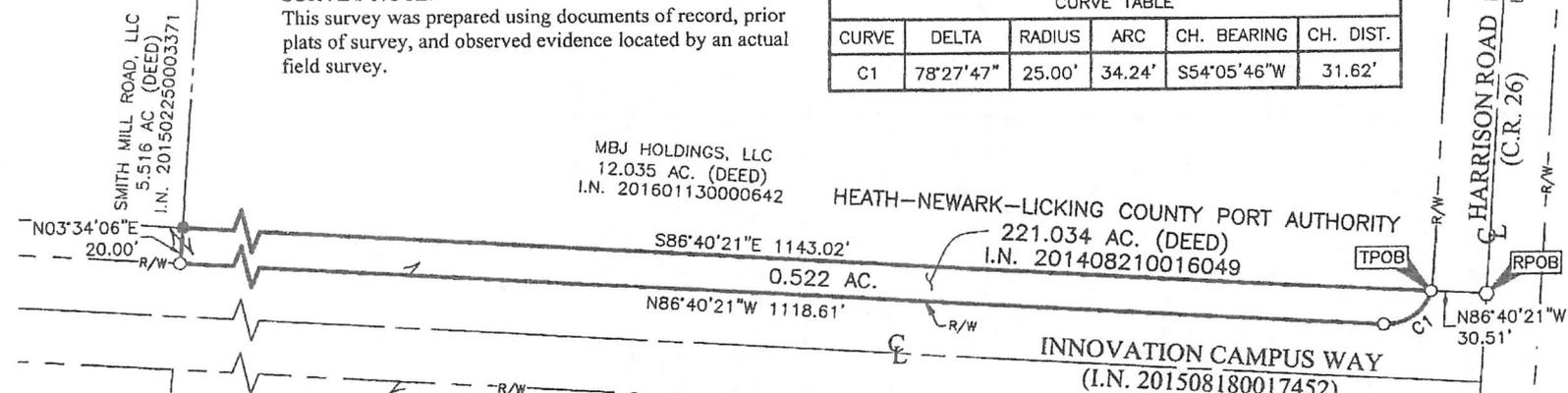
Scale: 1" = 80'

Job No. 2016-0749

SURVEY NOTE:

This survey was prepared using documents of record, prior plats of survey, and observed evidence located by an actual field survey.

CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CH. BEARING	CH. DIST.
C1	78°27'47"	25.00'	34.24'	S54°05'46"W	31.62'



MBJ HOLDINGS, LLC
 12.035 AC. (DEED)
 I.N. 201601130000642

HEATH-NEWARK-LICKING COUNTY PORT AUTHORITY
 221.034 AC. (DEED)
 I.N. 201408210016049

INNOVATION CAMPUS WAY
 (I.N. 201508180017452)

HEATH-NEWARK-LICKING
 COUNTY PORT AUTHORITY
 221.034 AC. (DEED)
 I.N. 201408210016049

- = MAG. NAIL SET
- = MAG. NAIL FND.
- = I.P. SET
- = 5/8" REBAR FND. CAPPED J&H 7830

UNLESS OTHERWISE STATED
 I.P. Set are 13/16" I.D. iron pipes
 30" long with cap inscribed EMHT INC.



GRAPHIC SCALE (in feet)

BASIS OF BEARINGS:

The Bearings shown hereon are based on the Ohio State Plane Coordinate System, South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected Franklin County Engineering Department Monuments FRANK 80 and Frank 180. The portions of the centerline of Beech Road, having a bearing of North 03° 25' 04" East, is designated the "basis of bearing" for this description.

By _____
 Matthew A. Kirk
 Professional Surveyor No. 7865

Date _____

J:\20160749\DWG\04SHEETS\BOUNDARY\20160749-VS-BNDY-03.DWG plotted by MAGERS, MARCUS on 9/22/2016 12:50:14 PM last saved by MMAGERS on 9/22/2016 12:29:42 PM
 Xrefs:

Exhibit A



Prepared: 09/23/2016
Introduced: 10/04/2016
Revised:
Adopted:
Effective:

ORDINANCE O-34-2016

AUTHORIZING AN AMENDMENT TO THE TAX INCREMENT FINANCING AGREEMENT (VILLAGE CENTER) WITH THE NEW ALBANY COMPANY LLC FOR THE DESIGN AND CONSTRUCTION OF CERTAIN SIDEWALK, STREETScape AND STORMWATER IMPROVEMENTS IN CONNECTION WITH THE DEVELOPMENT OF PROPERTY LOCATED AT THE SOUTHEAST AND SOUTHWEST CORNERS OF MARKET STREET AND MAIN STREET

WHEREAS, New Albany City Council, by its Ordinance No. 0-32-2013, as adopted November 19, 2013 (the "*New Village Center TIF*"), and by its Ordinance No. 0-31-2013, as adopted December 3, 2013 (the "*Straits Farm TIF*" and, together with the New Village Center TIF, the "*TIF Ordinances*"), declared the improvement of certain parcels of real property located within the City (collectively, the "*Parcels*" and, individually, each a "*Parcel*") to be a public purpose and exempt from taxation; required the owner of each Parcel to make service payments in lieu of taxes (collectively, for all Parcels, the "*Service Payments*") to the Franklin County Treasurer; provided for the distribution of the applicable portion of the Service Payments to the New Albany Plain Local School District and the Eastland Joint Vocational School District; established municipal tax increment equivalent funds (together, the "*Fund*") for the deposit of the remainder of such Service Payments; and specified certain public infrastructure improvements made or to be made that benefit or serve the Parcels (the "*Public Infrastructure Improvements*"), all pursuant to and in accordance with Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code; and

WHEREAS, The New Albany Company LLC (the "*Developer*") and the City entered into a Tax Increment Financing Agreement (Village Center) dated as of September 10, 2014 (the "*TIF Agreement*") to reimburse the Developer for the design and construction of certain of the Public Infrastructure Improvements consisting of improvements to the intersection of and approaches to Market and Main Streets and the extension of Market Street; and

WHEREAS, the Developer is the owner of certain real property that is included within the Parcels and generally located at the southwest and southeast corners of Market Street and Main Street the "*Property*") and expects to commence construction of one hundred thirty-one market rate rental apartment units on the Property (the "*Project*"); and

WHEREAS, to enable the development of the Property and the Project, the Developer expects to make certain of the Public Infrastructure Improvements with an expected cost of approximately \$1,700,000, which generally consist of sidewalk and streetscape improvements bordering the Property and the Project and stormwater improvements on and around the Property (the "*Additional Public Improvements*"), which Additional Public Improvements directly benefit or serve the Parcels and the Project; and

WHEREAS, the expected Service Payments that will be generated by the Project exceed the expected costs of the Additional Public Improvements; and

WHEREAS, the City and the Developer now desire to amend the TIF Agreement in order to add the costs of the Additional Public Improvements to the "Project Costs" that are reimbursable to the Developer under the TIF Agreement; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of New Albany, Counties of Franklin and Licking, Ohio, that:

Section 1. Amendment to the Tax Increment Financing Agreement. The First Amendment to the Tax Increment Financing Agreement (Village Center)(the "*Amendment*"), providing for the design and construction of the Additional Public Improvements by the Developer and reimbursement of the costs of those improvements by the City to the Developer from money deposited into the Fund is hereby authorized as set forth in Exhibit A attached hereto and made a part hereof. This Council hereby expressly waives any requirement for competitive bidding pursuant to the City's Codified Ordinances that may be applicable to the construction of the Additional Public Improvements by the Developer. The City Manager, for and in the name of the City, is hereby authorized to execute and deliver the Amendment in substantially that form along with any changes or completions thereto, provided that the approval of such changes and completions thereto by the City Manager, and the character of those changes and completions as not being substantially adverse to the City, will be evidenced conclusively by the City Manager's execution thereof.

Section 2. Further Authorizations. This council further hereby authorizes and directs the Mayor, the City Manager, the Director of Finance, the Director of Law, the Director of Community Development, the Clerk of Council or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

Section 3. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 4. Pursuant to Article VI, Section 6.07(a) of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2016.

Attest:

Sloan T. Spalding
Mayor

Jennifer H Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

**CERTIFICATION BY CLERK OF COUNCIL
OF PUBLICATION OF LEGISLATION**

I hereby certify that copies of Ordinance O-34-2016 were duly posted in accordance with Section 6.12 of the Charter for at least 30 days starting on _____, 2016

_____, 2016
Jennifer H. Mason, Clerk of Council Date

**FIRST AMENDMENT TO THE
TAX INCREMENT FINANCING AGREEMENT
(Village Center)**

This FIRST AMENDMENT TO THE TAX INCREMENT FINANCING AGREEMENT (this "*Amendment*") is made and entered into this ___ day of _____, 2016, by and between the CITY OF NEW ALBANY, OHIO, a municipal corporation organized and existing under the constitution and laws of the State of Ohio and its Charter (the "*City*"), and THE NEW ALBANY COMPANY LLC, a Delaware limited liability company (the "*Developer*"), which amends that certain Tax Increment Financing Agreement, made and entered into as of September 10, 2014, by and between the City and the Developer (the "*Original Agreement*" and together with the Amendment, the "*Amended Agreement*").

WITNESSETH:

WHEREAS, City Council, by its Ordinance No. 0-32-2013, as adopted November 19, 2013 (the "*New Village Center TIF*"), and by its Ordinance No. 0-31-2013, as adopted December 3, 2013 (the "*Straits Farm TIF*" and, together with the New Village Center TIF, the "*TIF Ordinances*"), declared the improvement of certain parcels of real property located within the City (collectively, the "*Parcels*" and, individually, each a "*Parcel*") to be a public purpose and exempt from taxation; required the owner of each Parcel to make service payments in lieu of taxes (collectively, for all Parcels, the "*Service Payments*") to the Franklin County Treasurer; provided for the distribution of the applicable portion of the Service Payments to the New Albany Plain Local School District and the Eastland Joint Vocational School District; established municipal tax increment equivalent funds (together, the "*Fund*") for the deposit of the remainder of such Service Payments; and specified certain public infrastructure improvements made or to be made that benefit or serve the Parcels (the "*Public Infrastructure Improvements*"), all pursuant to and in accordance with Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code; and

WHEREAS, the City and the Developer entered into the Original Agreement in order to reimburse the Developer for certain Public Infrastructure Agreements to be made by the Developer that are necessary for the development of, and directly benefit or serve, the Parcels; and

WHEREAS, the Developer is the owner of certain real property that is included within the Parcels as depicted on Exhibit A to this Amendment (the "*Property*") and expects to commence construction of one hundred thirty-one market rate rental apartment units on the Property (the "*Project*"); and

WHEREAS, to enable the development of the Property and the Project, the Developer expects to make certain of the Public Infrastructure Improvements with an expected cost of approximately \$1,700,000, all as further described on Exhibit B to this Amendment (the "*Additional Public Improvements*"), which Additional Public Improvements directly benefit or serve the Parcels and the Project; and

WHEREAS, the expected Service Payments that will be generated by the Project exceed the expected costs of the Additional Public Improvements; and

WHEREAS, the City and the Developer now desire to amend the Original Agreement in order to add the costs of the Additional Public Improvements to the "Project Costs" that are reimbursable to the Developer under the Original Agreement; and

WHEREAS, the City authorized the execution and delivery of this Amendment by Ordinance No. 0-__-2016 adopted _____, 2016;

NOW, THEREFORE, the City and the Developer acknowledge and agree to the recitals above, which are hereby incorporated, and in consideration of the premises and covenants contained herein, and further acknowledge and agree as follows:

Section 1. Nature of this Amendment; Defined Terms.

(a) Except as expressly modified by this Amendment, the Original Agreement, remains in full force and effect in accordance with its unmodified terms. This Amendment is limited as written and shall not constitute a consent under or waiver or modification of any other term or condition of the Original Agreement.

(b) Except as expressly stated in this Amendment, all of the rights, privileges, terms, conditions, indemnifications, remedies, and other provisions defined in the Original Agreement shall remain and extend to the Amended Agreement. This Amendment shall not prejudice or otherwise affect any rights, privileges, terms, conditions, indemnifications, or remedies which the Developer or the City now has or may have in the future under the Original Agreement.

(c) All capitalized terms used as defined terms, but not otherwise defined herein, shall have the meanings ascribed to them in the Original Agreement.

Section 2. Additional Public Improvements; Payments to the Developer. The City agrees to reimburse the Developer from the Fund the lesser of (i) \$1,700,000 or (ii) the actual costs of the Additional Public Improvements (the "*Additional Project Costs*") upon the satisfaction of the conditions Section 3 of the Original Agreement with respect to the Additional Public Improvements; provided, however, that if the actual costs of the Additional Public Improvements exceed \$1,700,000, the City agrees to meet with the Developer at the Developer's request to discuss the potential of increasing the amount of Additional Project Costs reimbursable under the Amended Amendment. A preliminary budget of the Additional Public Improvements showing the anticipated categories of costs is attached as Exhibit B.

For purposes of the Amended Agreement, the Additional Public Improvements shall be considered "Public Improvements", and the Additional Project Costs shall be considered "Project Costs" and shall become part of the Reimbursement Obligation upon satisfaction of the conditions of Section 3 of the Original Agreement with respect to those Additional Public Improvements and Additional Project Costs. In order to accommodate the Additional Project Costs, the maximum amount of Project Costs reimbursable to the Developer pursuant to Section 1 of the Original Agreement is hereby increased from \$4,000,000 to \$5,700,000.

Section 3. Certain Representations, Warranties and Agreements of the City.

All of the City's representations, warranties and agreements set forth in Section 6 of the Original Agreement hereby incorporated to this Amendment and re-made as of the date hereof, and the City further represents and warrants that it has duly authorized the execution and delivery of this Amendment and the performance of the Amended Agreement.

Section 4. Certain Representations and Warranties of the Developer.

All of the Developer representations, warranties and agreements set forth in Section 7 of the Original Agreement hereby incorporated to this Amendment and re-made as of the date hereof, and the Developer further represents and warrants that it has duly authorized the execution and delivery of this Amendment and the performance of the Amended Agreement.

Section 5. Severability.

If any provision of this Amendment is held to be illegal, invalid or unenforceable, that provision is fully severable. This Amendment will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Amendment or the Amended Agreement and the remaining provisions of this Amendment and the Amended Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Amendment or the Amended Agreement.

Section 6. Separate Counterparts.

This Amendment may be executed by the parties in one or more counterparts or duplicate signature pages, each of which when so executed and delivered is an original, with the same force and effect as if all required signatures were contained in a single original instrument. Any one or more of such counterparts or duplicate signature pages may be removed from any one or more original copies of this Amendment and annexed to other counterparts or duplicate signature pages to form a completely executed original instrument. Signatures transmitted by facsimile or electronic means are deemed original signatures.

Section 7. Governing Law and Choice of Forum.

This Amendment is governed by and construed in accordance with the laws of the State of Ohio and the provisions of the Original Agreement. All claims, counterclaims, disputes and other matters in question between the City, its employees, contractors, subcontractors and agents, and the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Amendment or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.

Section 8. Exhibits. The following Exhibits are attached hereto:

- (i) Exhibit A: Depiction of the Property
- (ii) Exhibit B: Additional Public Improvements and Additional Public Improvement Costs

(Signatures on next page)

IN WITNESS WHEREOF, the City and the Developer have caused this Amendment to be executed in their respective names by their duly authorized officers, as of the date first set forth above.

CITY OF NEW ALBANY, OHIO

By: _____
Joseph Stefanov, City Manager

Approved as to Form:

Director of Law

THE NEW ALBANY COMPANY LLC

By: _____
William Ebbing, President

FISCAL OFFICER'S CERTIFICATE

The City has no obligation to make payments pursuant to the foregoing agreement except from Service Payments and Property Tax Rollback Payments to be collected for deposit into the Fund. That money has pledged and appropriated for expenditure in accordance with the foregoing agreement. Accordingly, as fiscal officer for the City of New Albany and in accordance with the provisions of Article IX of the City Charter and Sections 5705.41 and 5705.44 of the Ohio Revised Code, I hereby certify that funds sufficient to meet the obligations of the City in the foregoing agreement, but in amount not greater than those moneys actually received by the City for deposit into the Fund, have been lawfully appropriated for the purposes thereof and are available in the treasury, and/or upon implementation of the processes under Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code, are in the process of collection to the credit of an appropriate fund, free from any previous encumbrance.

Dated: _____, 2016

Director of Finance

EXHIBIT A
DEPICTION OF THE PROPERTY

EXHIBIT B

ADDITIONAL PUBLIC IMPROVEMENTS DESCRIPTION AND ADDITIONAL PUBLIC COSTS*

*The City and the Developer acknowledge that the exact amount of each category may change as design and construction progress. However, the overall amount of Additional Project Costs eligible for reimbursement under the Amendment and the Amended Agreement is subject to the provision of this Section 2 of the Amendment.

- The construction of Ackerly Park, including but not limited to re-grading, tree, shrub and lawn reseeding as necessary. Anticipated cost of approximately \$262,000
- Streetscape improvements from Market Street curb to west edge of sidewalk along Market Street including street curbs, ramps, concrete walks, brick planting areas edges, soils for planting areas, bed edging material, trees, ground cover and mulch in planters.
- Streetscape improvements from market Street curb to west edge of sidewalk along Market Street including street curbs, ramps, concrete walks, brick planting area edges, soils for planting areas, bed edging material, trees, ground cover and mulch in planters. Anticipated cost of work described above along both Market and Main streets approximately \$730,000.
- Streetscape and public areas at the SW and SE corners of Market and Main streets including planting areas and brick edges to planting areas, brick walls and brick edges of walks; soils for planting areas, bed edging materials, trees, shrubs, ground covers, mulch, benches and trash receptacles and potted plants. Including plant bed metal railing around triangular center planting areas and along brick sidewalk edges. Anticipated cost of work described above approximately \$70,000.
- Community Park seating area including ground, brick walks and edges, plant bed metal railings, benches, planted plants, soils for planting areas, bed edging material, trees, shrubs, groundcover and mulch. Anticipated cost of work described above approximately 150,000.
- Underground storm water and water quality infrastructure that will allowing for more dense development consistent with City overall Village Center Master Plan. Anticipated cost of work described above approximately \$325,000



Prepared: 09/28/2016
Introduced: 10/18/2016
Revised:
Adopted:
Effective:

ORDINANCE O-35-2016

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$6,000,000 FOR THE PURPOSE OF PAYING THE COSTS OF REFUNDING BONDS PREVIOUSLY ISSUED BY THE CITY FOR THE PURPOSE OF PAYING THE COSTS OF CONSTRUCTING, FURNISHING AND EQUIPPING A PERFORMING ARTS CENTER, TOGETHER WITH ALL RELATED COSTS AND NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. O-22-2007 passed June 5, 2007 (the "2007 Bond Ordinance"), Bonds in the aggregate principal amount of \$9,005,000, dated July 31, 2007 (the "2007 Bonds"), were issued for the purpose described in Section 2; and

WHEREAS, this Council finds and determines that it will be in the City's best interest to issue general obligation bonds in accordance with Chapter 133 of the Ohio Revised Code in the maximum principal amount of \$6,000,000 (the "Bonds") in order to refund at a lower rate of interest all or a portion of the outstanding 2007 Bonds (collectively, the "Outstanding 2007 Bonds"), which Outstanding 2007 Bonds are subject to prior redemption at the option of the City at a redemption price of 100% of par plus any accrued interest to their redemption date, and to pay any expenses relating to that refunding and the issuance of the Bonds; and

WHEREAS, this Council has requested that the Director of Finance, as fiscal officer of the City, certify the estimated life or period of usefulness of the "Improvement" described in Section 2 and the maximum maturity of the "Bonds" described in Section 2; and

WHEREAS, the Director of Finance has certified to Council that the estimated life or period of usefulness of the "Improvement" described in Section 2 is at least five years and that the maximum maturity of the "Bonds" is December 1, 2027; and

WHEREAS, this ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare of the City, or for the further reason that this ordinance is required to be immediately effective in order to permit the prompt issuance and sale of the "Bonds," which is necessary to enable the City to take advantage of favorable interest rates and realize a savings in interest costs by refunding the "Refunded Bonds" (as defined in Section 1);

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. Definitions and Interpretation. In addition to the words and terms elsewhere defined in this ordinance, unless the context or use clearly indicates another or different meaning or intent:

"Authorized Denominations" means the minimum denominations or any integral multiple in excess thereof as set forth in the Certificate of Award.

"Bond Proceedings" means, collectively, this ordinance, the Certificate of Award, the Escrow Agreement, and such other proceedings of the City, including the Bonds, that provide collectively for, among other things, the rights of holders and beneficial owners of the Bonds, and to the extent it is determined necessary by the Director of Finance in the Certificate of Award, the Purchase Agreement and the Registrar Agreement.

"Bond Register" means all books and records necessary for the registration, exchange and transfer of Bonds as provided in Section 5.

"Bond Registrar" means the Director of Finance, the Original Purchaser, or a bank or trust company authorized to do business in the State of Ohio and designated by the Director of Finance in the Certificate of Award pursuant to Section 4 as the initial authenticating agent, bond registrar, transfer agent and paying agent for the Bonds under the Registrar Agreement, to the extent a Registrar Agreement is determined necessary by the Director of Finance in the Certificate of Award, and either until appointment of a successor Bond Registrar or a successor Bond Registrar shall have become such pursuant to the provisions of the Registrar Agreement (if any) and, thereafter, *"Bond Registrar"* shall mean the successor Bond Registrar.

"Bonds" means, collectively, the Serial Bonds and the Term Bonds, each as is designated as such in the Certificate of Award.

"Book entry form" or *"book entry system"* means a form or system under which (a) the ownership of beneficial interests in the Bonds and the principal of and interest and any premium on the Bonds may be transferred only through a book entry, and (b) physical Bond certificates in fully registered form are issued by the City and payable only to a Depository or its nominee as registered owner, with the certificates deposited with and "immobilized" in the custody of the Depository or its designated agent for that purpose. The book entry maintained by others than the City is the record that identifies the owners of beneficial interests in the Bonds and that principal and interest.

"Certificate of Award" means the certificate authorized by Section 6, to be executed by the Director of Finance, setting forth and determining those terms or other matters pertaining to the Bonds and their issuance, sale and delivery as this Ordinance requires or authorizes to be set forth or determined therein.

"City Manager" means the City Manager of the City.

"Clerk of Council" means the Clerk of Council of the City.

"Closing Date" means the date of physical delivery of, and payment of the purchase price for, the Bonds.

"Code" means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“Depository” means any securities depository that is a clearing agency registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, operating and maintaining, with its Participants or otherwise, a book entry system to record ownership of beneficial interests in the Bonds or the principal of and interest and any premium on the Bonds, and to effect transfers of the Bonds, in book entry form, and includes and means initially The Depository Trust Company (a limited purpose trust company), New York, New York.

“Director of Finance” means the Director of Finance of the City.

“Escrow Agreement” means the Escrow Agreement between the City and the Escrow Trustee, as it may be modified from the form on file with the Clerk of Council and executed by the City Manager and the Director of Finance, all in accordance with Section 10.

“Escrow Fund” means the City of New Albany, Ohio – Series 2016 Refunding Escrow Fund created pursuant to Section 10 and in accordance with the Escrow Agreement.

“Escrow Trustee” means a bank or trust company authorized to do business in the State of Ohio and designated by the Director of Finance in the Certificate of Award pursuant to Section 10 as the initial escrow trustee for the Refunded Bonds under the Escrow Agreement and until a successor Escrow Trustee shall have become such pursuant to the provisions of the Escrow Agreement and, thereafter, *“Escrow Trustee”* shall mean the successor Escrow Trustee.

“Financing Costs” shall have the meaning given in Section 133.01 of the Ohio Revised Code.

“Interest Payment Dates” means June 1 and December 1 of each year that the Bonds are outstanding, commencing on the date specified in the Certificate of Award.

“Mandatory Redemption Date” shall have the meaning set forth in Section 3(b).

“Mandatory Sinking Fund Redemption Requirements” shall have the meaning set forth in Section 3(e)(i).

“Original Purchaser” means the purchaser of the Bonds specified in the Certificate of Award.

“Participant” means any participant contracting with a Depository under a book entry system and includes securities brokers and dealers, banks and trust companies, and clearing corporations.

“Principal Payment Dates” means December 1 in each of the years as determined by the Director of Finance in the Certificate of Award, *provided* that the first Principal Payment Date shall occur no later than the earliest maturity date of the Refunded Bonds, and *provided further* that in no case shall the final Principal Payment Date exceed the maximum maturity limitation referred to in the preambles hereto, all of which determinations shall be made by the Director of Finance in the Certificate of Award in such manner as to be in the best interest of and financially advantageous to the City.

“Purchase Agreement” means the Bond Purchase Agreement, which to the extent it is determined necessary by the Director of Finance in the Certificate of Award, shall be between the City and the Original Purchaser, as it may be modified from the form on file with the Clerk of Council and executed by the City Manager and the Director of Finance, all in accordance with Section 6.

“Redemption Date” means the date designated by the Director of Finance in the Certificate of Award as the earliest practicable date on which the Refunded Bonds shall be redeemed in accordance with Section 10.

"*Refunded Bonds*" means, collectively, the principal maturities of the Outstanding 2007 Bonds to be determined by the Director of Finance in the Certificate of Award as the maturities the refunding of which will be in the best interest of and to the financial advantage of the City.

"*Registrar Agreement*" means the Bond Registrar Agreement, which to the extent it is determined necessary by the Director of Finance in the Certificate of Award, shall be between the City and the Bond Registrar, as it may be modified from the form on file with the Clerk of Council and executed by the City Manager and the Director of Finance, all in accordance with Section 4.

"*Regulations*" means Treasury Regulations issued pursuant to the Code or to the statutory predecessor of the Code.

"*Serial Bonds*" means those Bonds designated as such and maturing on the dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and not subject to mandatory sinking fund redemption.

"*Term Bonds*" means those Bonds designated as such and maturing on the date or dates set forth in the Certificate of Award, bearing interest payable on each Interest Payment Date and subject to mandatory sinking fund redemption.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated.

Section 2. Authorized Principal Amount and Purpose; Application of Proceeds. This Council determines that it is necessary and in the best interest of the City to issue bonds of this City in the maximum principal amount of \$6,000,000 (the "*Bonds*") for the purpose of paying the costs of refunding bonds previously issued by the City for the purpose of paying the costs of constructing, furnishing and equipping a performing arts center, together with all related costs and necessary appurtenances thereto (the "*Improvement*"). The Bonds shall be issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The principal amount of Bonds to be issued shall not exceed the maximum principal amount specified in this Section 2 and shall be an amount determined by the Director of Finance in the Certificate of Award to be the principal amount of Bonds that is required to be issued at this time for the purpose stated in this Section 2, taking into account the costs of refunding the Refunded Bonds, other City monies available for the purpose, the estimates of the Financing Costs and the interest rates on the Bonds. The Refunded Bonds shall be determined by the Director of Finance in the Certificate of Award as the maturities of the Outstanding 2007 Bonds the refunding of which will be in the best interest of and to the financial advantage of the City.

The proceeds from the sale of the Bonds received by the City (or withheld by the Original Purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purpose for which the Bonds are being issued, including without limitation but only to the extent not paid by others, the payment of the costs of issuing and servicing the Bonds, printing and delivery of the Bonds, legal services including obtaining the approving legal opinion of bond counsel, fees and expenses of any municipal advisor, placement agent, paying agent, escrow trustee, verification consultant, bidding agent and rating agency, any fees or premiums relating to municipal bond insurance or other security arrangements determined necessary by the Director of Finance, and all other Financing Costs and costs incurred incidental to those purposes. The Certificate of Award, and to the extent it is determined necessary by the Director of Finance in the Certificate of Award, the Purchase

Agreement may authorize the Original Purchaser to withhold certain proceeds from the purchase price of the Bonds to provide for the payment of Financing Costs related to the Bonds on behalf of the City. Any portion of those proceeds received by the City representing premium (after payment of any Financing Costs identified in the Certificate of Award or the Purchase Agreement (if any)) shall be used to pay costs of refunding the Refunded Bonds and/or be paid into the Bond Retirement Fund, with such determination being made by the Director of Finance in the Certificate of Award, consistent with the Director of Finance's determination of the best interest of and financial advantages to the City. Any portion of those proceeds received by the City representing accrued interest shall be paid into the Bond Retirement Fund.

Section 3. Denominations; Dating; Principal and Interest Payment and Redemption Provisions. The Bonds shall be issued in one lot and only as fully registered bonds, in Authorized Denominations, but in no case as to a particular maturity date exceeding the principal amount maturing on that date. The Bonds shall be dated as provided in the Certificate of Award; *provided* that their dated date shall not be more than sixty (60) days prior to the Closing Date. If requested by the Original Purchaser, the Director of Finance is hereby authorized to prepare one bond representing the aggregate principal amount of Bonds maturing on all of the Principal Payment Dates, all as set forth in the Certificate of Award.

(a) Interest Rates and Payment Dates. The Bonds shall bear interest at the rate or rates per year (computed on the basis of a 360-day year consisting of twelve 30-day months) as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award. Interest on the Bonds shall be payable at such rate or rates on the Interest Payment Dates until the principal amount has been paid or provided for. The Bonds shall bear interest from the most recent date to which interest has been paid or provided for or, if no interest has been paid or provided for, from their date.

(b) Principal Payment Schedule. The Bonds shall mature or be payable pursuant to Mandatory Sinking Fund Redemption Requirements on the Principal Payment Dates in principal amounts as shall be determined by the Director of Finance, subject to subsection (c) of this Section 3, in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City.

Consistent with the foregoing and in accordance with the determination of the best interest of and financial advantages to the City, the Director of Finance shall specify in the Certificate of Award (i) the aggregate principal amount of Bonds to be issued as Serial Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature and the principal amount thereof that shall be stated to mature on each such Principal Payment Date and (ii) the aggregate principal amount of Bonds to be issued as Term Bonds, the Principal Payment Date or Dates on which those Bonds shall be stated to mature, the principal amount thereof that shall be stated to mature on each such Principal Payment Date, the Principal Payment Date or Dates on which Term Bonds shall be subject to mandatory sinking fund redemption (each a "Mandatory Redemption Date") and the principal amount thereof that shall be payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Mandatory Redemption Date.

(c) Conditions for Establishment of Interest Rates and Principal Payment Dates and Amounts. The rate or rates of interest per year to be borne by the Bonds and the principal amount of Bonds maturing or payable pursuant to Mandatory Sinking Fund Redemption Requirements on each Principal Payment Date, shall be such as to demonstrate a net present value savings to the City due to the refunding of the Refunded Bonds, after taking into account all expenses related to that refunding and the issuance of the Bonds.

(d) Payment of Debt Charges. The debt charges on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. Principal of and any premium on the Bonds shall be payable when due upon presentation and

surrender of the Bonds at the designated office of the Bond Registrar; *provided, however*, to the extent that the Bonds are represented by a single bond as permitted by this Section 3, principal of the Bonds shall be payable without prior presentation or surrender of the Bond, and in the case of the final principal payment due hereunder, surrender of the Bond at the designated office of the Bond Registrar. Interest on a Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond was registered, and to that person's address appearing, on the Bond Register at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date. Notwithstanding the foregoing, if and so long as the Bonds are issued in a book entry system, principal of and interest and any premium on the Bonds shall be payable in the manner provided in any agreement entered into by the Director of Finance, in the name and on behalf of the City, in connection with the book entry system.

(e) Redemption Provisions. The Bonds shall be subject to redemption prior to stated maturity as follows:

(i) Mandatory Sinking Fund Redemption of Term Bonds. If any of the Bonds are issued as Term Bonds, the Term Bonds shall be subject to mandatory redemption in part by lot and be redeemed pursuant to mandatory sinking fund redemption requirements, at a redemption price of 100% of the principal amount redeemed, plus accrued interest to the redemption date, on the applicable Mandatory Redemption Dates and in the principal amounts payable on those Dates, for which provision is made in the Certificate of Award (such Dates and amounts being referred to as the "*Mandatory Sinking Fund Redemption Requirements*").

The aggregate of the moneys to be deposited with the Bond Registrar for payment of principal of and interest on any Term Bonds on each Mandatory Redemption Date shall include an amount sufficient to redeem on that Date the principal amount of Term Bonds payable on that Date pursuant to the Mandatory Sinking Fund Redemption Requirements (less the amount of any credit as hereinafter provided).

The City shall have the option to deliver to the Bond Registrar for cancellation Term Bonds in any aggregate principal amount and to receive a credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) of the City, as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. That option shall be exercised by the City on or before the 45th day preceding any Mandatory Redemption Date with respect to which the City wishes to obtain a credit, by furnishing the Bond Registrar a certificate, signed by the Director of Finance, setting forth the extent of the credit to be applied with respect to the then current or any subsequent Mandatory Sinking Fund Redemption Requirement for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered. If the certificate is not timely furnished to the Bond Registrar, the current Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation) shall not be reduced. A credit against the then current or any subsequent Mandatory Sinking Fund Redemption Requirement (and corresponding mandatory redemption obligation), as specified by the Director of Finance, also shall be received by the City for any Term Bonds which prior thereto have been redeemed (other than through the operation of the applicable Mandatory Sinking Fund Redemption Requirements) or purchased for cancellation and canceled by the Bond Registrar, to the extent not applied theretofore as a credit against any Mandatory Sinking Fund Redemption Requirement, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

Each Term Bond so delivered, or previously redeemed, or purchased and canceled, shall be credited by the Bond Registrar at 100% of the principal amount thereof against the then current or subsequent Mandatory Sinking Fund Redemption Requirements (and corresponding mandatory redemption obligations), as specified by the Director of Finance, for Term Bonds stated to mature on the same Principal Payment Date and bearing interest at the same rate as the Term Bonds so delivered, redeemed or purchased and canceled.

(ii) Optional Redemption. The Bonds of the maturities and interest rates specified in the Certificate of Award (if any are so specified) shall be subject to optional redemption by and at the sole option of the City, in whole or in part in Authorized Denominations, on the dates and at the redemption prices (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date, to be determined by the Director of Finance in the Certificate of Award; *provided* that the redemption price for any optional redemption date shall not be greater than 103%.

If optional redemption of Term Bonds at a redemption price exceeding 100% of the principal amount to be redeemed is to take place as of any Mandatory Redemption Date applicable to those Term Bonds, the Term Bonds, or portions thereof, to be redeemed optionally shall be selected by lot prior to the selection by lot of the Term Bonds of the same maturity (and interest rate within a maturity if applicable) to be redeemed on the same date by operation of the Mandatory Sinking Fund Redemption Requirements. Bonds to be redeemed pursuant to this paragraph shall be redeemed only upon written notice from the Director of Finance to the Bond Registrar, given upon the direction of the City by passage of an ordinance or adoption of a resolution. That notice shall specify the redemption date and the principal amount of each maturity (and interest rate within a maturity if applicable) of Bonds to be redeemed, and shall be given at least 45 days prior to the redemption date or such shorter period as shall be acceptable to the Bond Registrar.

(iii) Partial Redemption. If fewer than all of the outstanding Bonds are called for optional redemption at one time and Bonds of more than one maturity (or interest rate within a maturity if applicable) are then outstanding, the Bonds that are called shall be Bonds of the maturity or maturities and interest rate or rates selected by the City. If fewer than all of the Bonds of a single maturity (or interest rate within a maturity if applicable) are to be redeemed, the selection of Bonds of that maturity (or interest rate within a maturity if applicable) to be redeemed, or portions thereof in Authorized Denominations, shall be made by the Bond Registrar by lot in a manner determined by the Bond Registrar. In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than the Authorized Denominations are then outstanding, each Authorized Denomination unit of principal thereof shall be treated as if it were a separate Bond of the Authorized Denomination. If it is determined that one or more, but not all, of the Authorized Denomination units of principal amount represented by a Bond are to be called for redemption, then, upon notice of redemption of an Authorized Denomination unit or units, the registered owner of that Bond shall surrender the Bond to the Bond Registrar (A) for payment of the redemption price of the Authorized Denomination unit or units of principal amount called for redemption (including, without limitation, the interest accrued to the date fixed for redemption and any premium), and (B) for issuance, without charge to the registered owner, of a new Bond or Bonds of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmaturing and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

(iv) Notice of Redemption. The notice of the call for redemption of Bonds shall identify (A) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to

be redeemed, (B) the redemption price to be paid, (C) the date fixed for redemption, and (D) the place or places where the amounts due upon redemption are payable. The notice shall be given by the Bond Registrar on behalf of the City by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least 30 days prior to the date fixed for redemption, to the registered owner of each Bond subject to redemption in whole or in part at the registered owner's address shown on the Bond Register maintained by the Bond Registrar at the close of business on the 15th day preceding that mailing. Failure to receive notice by mail or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any Bond.

(v) Payment of Redeemed Bonds. In the event that notice of redemption shall have been given by the Bond Registrar to the registered owners as provided above, there shall be deposited with the Bond Registrar on or prior to the redemption date, moneys that, in addition to any other moneys available therefor and held by the Bond Registrar, will be sufficient to redeem at the redemption price thereof, plus accrued interest to the redemption date, all of the redeemable Bonds for which notice of redemption has been given. Notice having been mailed in the manner provided in the preceding paragraph hereof, the Bonds and portions thereof called for redemption shall become due and payable on the redemption date, and, subject to the provisions of Sections 3(d) and 5, upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, plus accrued interest to the redemption date. If moneys for the redemption of all of the Bonds and portions thereof to be redeemed, together with accrued interest thereon to the redemption date, are held by the Bond Registrar on the redemption date, so as to be available therefor on that date and, if notice of redemption has been deposited in the mail as aforesaid, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be outstanding. If those moneys shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption. All moneys held by the Bond Registrar for the redemption of particular Bonds shall be held in trust for the account of the registered owners thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds; *provided* that any interest earned on the moneys so held by the Bond Registrar shall be for the account of and paid to the City to the extent not required for the payment of the Bonds called for redemption.

Section 4. Execution and Authentication of Bonds; Appointment of Bond Registrar. The Bonds shall be signed by the City Manager and the Director of Finance, in the name of the City and in their official capacities; *provided* that either or both of those signatures may be a facsimile. The Bonds shall be issued in the Authorized Denominations and numbers as requested by the Original Purchaser and approved by the Director of Finance, shall be numbered as determined by the Director of Finance in order to distinguish each Bond from any other Bond, and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance and the Certificate of Award.

The Director of Finance is hereby authorized to designate in the Certificate of Award the Director of Finance, the Original Purchaser or a bank or trust company authorized to do business in the State of Ohio to act as the initial Bond Registrar. To the extent it is determined necessary by the Director of Finance in the Certificate of Award, the City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Registrar Agreement between the City and the Bond Registrar, in substantially the form as is now on file with the Clerk of Council. The Registrar Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on

behalf of the City, all of which shall be conclusively evidenced by the signing of the Registrar Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Registrar Agreement, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Certificate of Award and, to the extent it is determined necessary by the Director of Finance in the Certificate of Award, the Purchase Agreement (if any), from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

No Bond shall be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Bond Proceedings unless and until the certificate of authentication printed on the Bond is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the Bond Registrar or by any other person acting as an agent of the Bond Registrar and approved by the Director of Finance on behalf of the City. The same person need not sign the certificate of authentication on all of the Bonds.

Section 5. Registration; Transfer and Exchange; Book Entry System.

(a) Bond Register. So long as any of the Bonds remain outstanding, the City will cause the Bond Registrar to maintain and keep the Bond Register at its designated office. Subject to the provisions of Section 3(d), the person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute owner of that Bond for all purposes of the Bond Proceedings. Payment of or on account of the debt charges on any Bond shall be made only to or upon the order of that person; neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section 5. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond, including interest, to the extent of the amount or amounts so paid.

(b) Transfer and Exchange. Any Bond may be exchanged for Bonds of any Authorized Denomination upon presentation and surrender at the designated office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. A Bond may be transferred only on the Bond Register upon presentation and surrender of the Bond at the designated office of the Bond Registrar together with an assignment signed by the registered owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Upon exchange or transfer the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any Authorized Denomination or Denominations requested by the owner equal in the aggregate to the unmatured principal amount of the Bond surrendered and bearing interest at the same rate and maturing on the same date.

If manual signatures on behalf of the City are required, the Bond Registrar shall undertake the exchange or transfer of Bonds only after the new Bonds are signed by the authorized officers of the City. In all cases of Bonds exchanged or transferred, the City shall sign and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of the Bond Proceedings. The exchange or transfer shall be without charge to the owner, except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before the procedure is begun for the exchange or transfer. All Bonds issued and authenticated upon any exchange or transfer shall be valid obligations of the City, evidencing the same debt, and entitled to the same security and benefit under the Bond Proceedings as the Bonds surrendered upon that exchange or transfer. Neither the City nor the Bond Registrar shall be required to make any exchange or transfer of (i)

Bonds then subject to call for redemption between the 15th day preceding the mailing of notice of Bonds to be redeemed and the date of that mailing, or (ii) any Bond selected for redemption, in whole or in part.

(c) Book Entry System. Notwithstanding any other provisions of this Ordinance, if the Director of Finance determines in the Certificate of Award that it is in the best interest of and financially advantageous to the City, the Bonds may be issued in book entry form in accordance with the following provisions of this Section 5.

The Bonds may be issued to a Depository for use in a book entry system and, if and as long as a book entry system is utilized: (i) the Bonds may be issued in the form of a single, fully registered Bond representing each maturity, and, if applicable, each interest rate within a maturity, and registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository or its designated agent for that purpose, which may be the Bond Registrar; (ii) the beneficial owners of Bonds in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iii) ownership of beneficial interests in book entry form shall be shown by book entry on the system maintained and operated by the Depository and its Participants, and transfers of the ownership of beneficial interests shall be made only by book entry by the Depository and its Participants; and (iv) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Director of Finance may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance does not or is unable to do so, the Director of Finance, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Bonds from the Depository, and shall cause Bond certificates in registered form and Authorized Denominations to be authenticated by the Bond Registrar and delivered to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of City action or inaction, of those persons requesting such issuance.

The Director of Finance is hereby authorized and directed, to the extent necessary or required, to enter into any agreements, in the name and on behalf of the City, which the Director of Finance determines to be necessary in connection with a book entry system for the Bonds.

Section 6. Sale of the Bonds to the Original Purchaser. The Director of Finance is authorized to sell the Bonds at private sale to the Original Purchaser at a purchase price, not less than 97% of the aggregate principal amount thereof, as shall be determined by the Director of Finance in the Certificate of Award, plus accrued interest (if any) on the Bonds from their date to the Closing Date, and shall be awarded by the Director of Finance with and upon such other terms as are required or authorized by this Ordinance to be specified in the Certificate of Award, in accordance with law, and the provisions of this Ordinance and, to the extent it is determined necessary by the Director of Finance in the Certificate of Award, the Purchase Agreement. The Director of Finance is authorized, if it is determined to be in the best interest of the City, to combine the issue of Bonds with one or more other bond issues of the City into a consolidated bond issue pursuant to Section 133.30(B) of the Ohio Revised Code in which case a single Certificate of Award may be utilized for the consolidated bond issue if appropriate and consistent with the terms of this Ordinance.

The Director of Finance shall sign and deliver the Certificate of Award and shall cause the Bonds to be prepared and signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Bonds, to the Original Purchaser upon payment of the purchase price.

To the extent it is determined necessary by the Director of Finance in the Certificate of Award, the City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Purchase Agreement between the City and the Original Purchaser, in substantially the form as is now on file with the Clerk of Council, providing for the sale to, and the purchase by, the Original Purchaser of the Bonds. The Purchase Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Purchase Agreement or amendments thereto.

The Mayor, the City Manager, the Director of Finance, the Director of Law, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this Ordinance.

Section 7. Provision for Tax Levy. There shall be levied on all the taxable property in the City, in addition to all other taxes, a direct tax annually during the period the Bonds are outstanding in an amount sufficient to pay the debt charges on the Bonds when due, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Ohio Constitution. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Bonds when and as the same fall due.

In each year to the extent the net revenues from any related tax increment financing service payments in lieu of taxes are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, the amount of the tax shall be reduced by the amount of such net revenues so available and appropriated.

In each year to the extent receipts from the municipal income tax are available for the payment of the debt charges on the Bonds and are appropriated for that purpose, and to the extent not paid from net revenues of the related tax increment financing service payments in lieu of taxes, the amount of the tax shall be reduced by the amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Bonds shall be paid from municipal income taxes lawfully available therefor under the Constitution and the laws of the State of Ohio, and the Charter of the City; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the two preceding paragraphs in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Bonds.

Section 8. Rating, Bond Insurance and Financing Costs.

(a) Application for Rating or Bond Insurance. If, in the judgment of the Director of Finance, the filing of an application for (i) a rating on the Bonds by one or more nationally-recognized rating agencies, or (ii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Bonds, is in the best interest of and financially advantageous to this City, the Director of Finance is authorized to prepare and submit those applications, to provide to each such agency or

company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, except to the extent otherwise paid in accordance with the Purchase Agreement (if any), from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The Director of Finance is hereby authorized, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, which the Director of Finance determines to be necessary in connection with the obtaining of that bond insurance.

(b) Financing Costs. The expenditure of the amounts necessary to pay any Financing Costs in connection with the Bonds, to the extent not paid by the Original Purchaser in accordance with the Certificate of Award or, to the extent it is determined necessary by the Director of Finance in the Certificate of Award, the Purchase Agreement, is authorized and approved, and the Director of Finance is authorized to provide for the payment of any such amounts and costs from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available that are appropriated or shall be appropriated for that purpose.

Section 9. Call for Redemption; Escrow Trustee; Escrow Agreement; Escrow Fund. To provide for the payment of the principal of and interest on the Refunded Bonds, the Director of Finance is hereby authorized to designate in the Certificate of Award a bank or trust company authorized to do business in the State of Ohio to act as the Escrow Trustee. The City Manager and the Director of Finance shall sign and deliver, in the name and on behalf of the City, the Escrow Agreement between the City and the Escrow Trustee, in substantially the form as is now on file with the Clerk of Council. The Escrow Fund provided for in the Escrow Agreement is hereby created. The Escrow Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Escrow Agreement or amendments thereto. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Escrow Agreement, except to the extent paid or reimbursed by the Original Purchaser in accordance with the Purchase Agreement (if any), from the proceeds of the Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose.

Acting pursuant to the 2007 Bond Ordinance which authorized the 2007 Bonds, the Refunded Bonds, as determined by the Director of Finance in the Certificate of Award to be refunded and called for redemption, are hereby called for redemption on the earliest practicable date as set forth in the Certificate of Award (the "*Redemption Date*") at the required redemption price of the principal amount thereof, and the Director of Finance is hereby authorized and directed to cause those Refunded Bonds to be called for redemption on the Redemption Date and arrange for the notice of redemption to be given in accordance with the applicable provisions of the 2007 Bond Ordinance.

For informational purposes, a certified copy of this Ordinance shall be sent by the Director of Finance to the current bond registrar for the Refunded Bonds.

In order to provide for the payment of (a) the interest on the Refunded Bonds on each interest payment date following the Closing Date and through the Redemption Date, (b) the principal and mandatory sinking fund payments (if any in each case) of the Refunded Bonds maturing on or prior to the Redemption Date, and (c) the principal of the Refunded Bonds to be called for redemption on the Redemption Date, the City covenants and agrees with the Escrow Trustee and with the owners of the Refunded Bonds that the City will take, and will cause the Escrow Trustee to take, all steps required by the terms of the Escrow Agreement to carry out such payments. The City will provide from the proceeds of the Bonds and other available funds in accordance with this Ordinance, moneys and investments sufficient to

pay in full (a) the interest on the Refunded Bonds on each interest payment date following the Closing Date and through the Redemption Date, (b) the principal and mandatory sinking fund payments (if any in each case) of the Refunded Bonds maturing on or prior to the Redemption Date, and (c) the principal of the Refunded Bonds to be called for redemption on the Redemption Date. The City covenants and agrees with the Escrow Trustee and with the owners of the Refunded Bonds that the City will take, and will cause the Escrow Trustee to take, all steps required by the terms of the 2007 Bond Ordinance, this Ordinance, Section 133.34 of the Ohio Revised Code, and the Escrow Agreement to carry out such payments so that the Refunded Bonds are not deemed to be outstanding.

There shall be delivered to the Escrow Trustee for the Escrow Fund proceeds to be received from the sale of the Bonds and other available moneys which to the extent not held in cash, shall be invested in United States Treasury Obligations ("*Treasury Securities*"), State and Local Government Series ("*SLG Securities*") or other direct obligations of or obligations guaranteed as to payment by the United States as defined in Section 133.34(D) of the Ohio Revised Code (the Treasury Securities, the SLG Securities and other direct obligations and guaranteed obligations are collectively referred to herein as the "*Securities*") that mature or are subject to redemption by and at the option of the holder not later than the date or dates when the moneys invested, which together with interest or other investment income accrued on those moneys and any moneys held in cash and not invested, will be sufficient to cause the Refunded Bonds to be deemed no longer outstanding as provided for in Section 133.34 of the Ohio Revised Code.

Those Securities shall be certified by an independent public accounting firm of national reputation in a written report (the "*Verification Report*") to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any moneys in the Escrow Fund to be held in cash and not invested as contemplated by the Verification Report, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, to cause the Refunded Bonds to be deemed no longer outstanding as provided for in Section 133.34 of the Ohio Revised Code, and the balance of those proceeds, less any amount thereof, contemplated by the Verification Report to be held in cash and not invested in the Escrow Fund, shall be used for the payment of costs related to the refunding and the issuance of the Bonds, and of Financing Costs. The Director of Finance is hereby authorized to retain and designate in the Certificate of Award an independent public accounting firm of national reputation to prepare and deliver the Verification Report.

At the direction of the Director of Finance, the Escrow Trustee or the Original Purchaser is authorized to apply and subscribe for SLG Securities on behalf of the City. Further, if the Director of Finance determines that it would be in the best interest and to the financial advantage of the City to purchase Treasury Securities for deposit into the Escrow Fund, the Director of Finance or any other officer of the City, on behalf of the City and in their official capacity, may purchase and deliver such obligations, engage the services of a municipal advisor, placement agent, bidding agent or similar entity for the purpose of facilitating the bidding, purchase and delivery of such obligations for, and any related structuring of, the Escrow Fund, execute such instruments as are deemed necessary to engage such services for such purpose, and provide further for the payment of the cost of obtaining such services, except to the extent paid by the Original Purchaser in accordance with the Purchase Agreement (if any), from the proceeds of the Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose.

Any such Securities, and moneys, if any, in addition thereto contemplated by the Verification Report to be held in cash, shall be held by the Escrow Trustee in trust and committed irrevocably to the payment of the principal of and accrued interest on the Refunded Bonds.

Section 10. Bond Counsel. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the

documents and the proceedings in connection with the authorization, sale and issuance of the Bonds and rendering at delivery related legal opinions. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 11. Placement Agent. The services of KeyBanc Capital Markets Inc., as placement agent, are hereby retained. The placement agent services shall be in the nature of financial advice and recommendations in connection with the issuance and sale of the Bonds. In rendering those placement agent services, as an independent contractor, that firm shall not exercise any administrative discretion on behalf of the City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, the City or any other political subdivision, or the execution of public trusts. To the extent it is determined necessary by the Director of Finance in the Certificate of Award, the City Manager and the Director of Finance may sign and deliver, in the name and on behalf of the City, a Bond Placement Agreement between the City and the Placement Agent (as defined herein) relating to the sale of the Bonds. That firm shall be paid just and reasonable compensation for those placement agent services and shall be reimbursed for the actual out-of-pocket expenses it incurs in rendering those placement agent services. The Director of Finance is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Bonds, if available, and otherwise from available moneys in the General Fund.

Section 12. Certification and Delivery of Ordinance and Certificate of Award. The Clerk of Council is directed to promptly deliver or cause to be delivered a certified copy of this Ordinance and an executed copy of the Certificate of Award to the County Auditors of Franklin County, Ohio and Licking County, Ohio.

Section 13. Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Bonds in order to make them legal, valid and binding general obligations of the City have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law; that the full faith and credit and general property taxing power (as described in Section 7) of the City are pledged for the timely payment of the debt charges on the Bonds; that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds; and that the Bonds are being authorized and issued pursuant to Chapter 133 of the Ohio Revised Code, the Charter of the City, this Ordinance, the Certificate of Award and other authorizing provisions of law.

Section 14. Compliance with Open Meeting Requirements. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

Section 15. Effective Date. By reason of the emergency set forth in the preamble hereto, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

CERTIFIED AS ADOPTED, this _____ day of _____, 2016.

Attest:

Sloan T. Spalding
Mayor

Jennifer H Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchevsky
Law Director

**CERTIFICATION BY CLERK OF COUNCIL
OF PUBLICATION OF LEGISLATION**

I hereby certify that copies of Ordinance O-35-2016 were duly posted in accordance with Section 6.12 of the Charter for at least 30 days starting on _____, 2016.

Jennifer Mason, Clerk of Council

_____, 2016
Date



Prepared: 10/10/2016
 Introduced: 10/18/2016
 Revised:
 Adopted:
 Effective:

ORDINANCE O-36-2016

APPROPRIATION AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES DURING THE FISCAL YEAR ENDING DECEMBER 31, 2016

WHEREAS, the city has chosen to take advantage of a Debt Refunding opportunity for its Series 2007 Capital Facilities Bonds making it necessary to appropriate the associated transactions in the Bond Improvement Fund.

NOW, THEREFORE, BE IT ORDAINED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio that:

Section 1. City Council hereby authorizes an increase in appropriations to the Bond Improvement Fund (403) as follows:

403.706.523604	Cost of Issuance	\$	48,027
403.706.526104	Bond Issue	\$	6,121,973

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 3. Pursuant to the Article VI, § 6.07(a) of the charter of the City of New Albany, this Ordinance shall take effect upon passage.

CERTIFIED AS ADOPTED this _____ day of _____, 2016.

Attest:

 Sloan T. Spalding
 Mayor

 Jennifer H. Mason
 Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

**CERTIFICATION BY CLERK OF COUNCIL
OF PUBLICATION OF LEGISLATION**

I certify that copies of Ordinance **O-36-2016** were posted in accordance with Section 6.12 of the Charter, for 30 days starting on _____, 2016.

Jennifer Mason, Clerk of Council

Date



Prepared: 10/06/2016
Introduced: 10/18/2016
Revised:
Adopted:
Effective:

ORDINANCE O-37-2016

AN ORDINANCE TO ACCEPT A 1.082 ACRE TRACT OF LAND FROM THE NEW ALBANY COMPANY FOR THE PURPOSE OF PUBLIC RIGHT OF WAY

WHEREAS, the 1.082 tract of land is generally located along the east side of Johnstown Road, across the street and east of the Ashton Green subdivision; and

WHEREAS, the land parcel from which this dedication will be granted was created when the New Albany Company consolidated six lots into three lots for redevelopment; and

WHEREAS, the city engineer has reviewed the newly created lots and commented this dedication is required and appropriate; and

WHEREAS, the city will benefit from this dedication of additional right of way.

NOW, THEREFORE, BE IT RESOLVED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The City Manager is hereby authorized to accept a 1.082 acre donation of land from the New Albany Company for the purposes of public right of way as depicted on Exhibit A.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

Section 3. Pursuant to Article VI, Section 6.07(a) of the charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2016.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED

**LIMITED WARRANTY DEED
(O.R.C. 5302.07 - 5302.08)**

KNOW ALL MEN BY THESE PRESENTS that THE NEW ALBANY COMPANY LLC, a Delaware limited liability company (the "**GRANTOR**"), whose tax mailing address is 8000 Walton Parkway, Suite 120, New Albany, Ohio 43054, for good and valuable consideration paid, grants, with limited warranty covenants, to THE CITY OF NEW ALBANY, OHIO, an Ohio municipal corporation (the "**GRANTEE**"), whose tax-mailing address is 99 West Main Street, New Albany, Ohio 43054, the following real property (the "**PREMISES**"):

See legal description attached as Exhibit A and depiction attached as Exhibit B.

County Auditor's Parcel Number: Split from parcels 222-002201-00; 222-002202-00; 222-000166-00; 222-000344-00; 222-000385-00; and 222-000405-00

Prior Instrument Reference: Office of the Recorder, Franklin County, Ohio
Instrument Nos. 200311200372374; 200311200372378;
201311220194470; 201605250066066; and
201608030101154

**THE PREMISES IS INTENDED BY GRANTEE TO BE HELD FOR USE AS
PUBLIC RIGHT-OF-WAY.**

The conveyance hereunder is made subject to all covenants, conditions, easements, restrictions, reservations, and other matters of record in the Office of the Recorder, Franklin County, Ohio.

[SIGNATURE AND ACKNOWLEDGMENT ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor has caused this Limited Warranty Deed to be executed by its duly authorized signatory this _____ day of _____, 2016.

THE NEW ALBANY COMPANY LLC,
a Delaware limited liability company

By: _____
Printed Name: _____
Title: _____

STATE OF OHIO,
COUNTY OF _____, ss:

BE IT REMEMBERED, that on this _____ day of _____, 2016, before me, the subscriber, a Notary Public in and for said county, personally came the above named _____, the _____ of THE NEW ALBANY COMPANY LLC, a Delaware limited liability company, and acknowledged the signing of the same to be his voluntary act and deed for and as the voluntary act and deed of said company.

Notary Public
My commission expires: _____

This instrument prepared by:
Underhill & Hodge LLC
8000 Walton Parkway, Suite 260
New Albany, Ohio 43054

EXHIBIT A
LEGAL DESCRIPTION

1.082 ACRES

Situated in the State of Ohio, County of Franklin, City of New Albany, in Quarter Township 3, Township 2, Range 16, United States Military Lands, being comprised of a part of each of those tracts of land conveyed The New Albany Company LLC by deeds of record in Instrument Numbers 200311200372374, 200311200372378, 201311220194470, 201605250066066 and 201608030101154 (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and more particularly bounded and described as follows:

BEGINNING at a magnetic nail set at the centerline intersection of Yantes Drive and Johnstown Road (U.S. 62), as shown in Plat Book 76, Page 54;

thence North 40° 59' 27" East, with the centerline of said Johnstown Road, a distance of 684.39 feet to a magnetic nail set at the southwesterly corner of that 1 acre tract conveyed to James M. Thissen, Trustee and Betty M. Burchett, Trustee by deed of record in Instrument Number 201201110004437;

thence South 85° 10' 51" East, with the southerly line of said 1 acre tract, a distance of 61.94 feet to an iron pin set;

thence South 40° 59' 27" West, crossing said The New Albany Company LLC tracts, a distance of 893.64 feet to an iron pin set;

thence South 41° 24' 38" West, crossing said The New Albany Company LLC tracts, a distance of 64.63 feet to an iron pin set in the northerly line of that 1.134 acre tract conveyed to Betty L. Harvey, Tina M. Harvey, Ted J. Harvey and Trina L. Harvey by deed of record in Official Record 1937F04;

thence North 55° 23' 37" West, with said northerly line, a distance of 50.35 feet to a magnetic nail set in the centerline of said Johnstown Road (Plat Book 86, Page 11 and Instrument Number 200312160396297);

thence North 41° 24' 38" East, with said centerline, a distance of 70.42 feet to a magnetic nail set;

thence North 40° 59' 27" East, with said centerline, a distance of 172.51 feet to the POINT OF BEGINNING, containing 1.082 acres of land, more or less, of which 0.645 acre falls within the presently occupied right-of-way of said Johnstown Road.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

Bearings herein are based on the same meridian as the bearings shown on the subdivision plat entitled "The New Albany Country Club Section 6", of record in Plat Book 76, Page 54, assigning a bearing of North 40°59'27" East for a portion of the centerline of Johnstown Road.

This description is based on an actual field survey performed by EMH&T in September 2016.

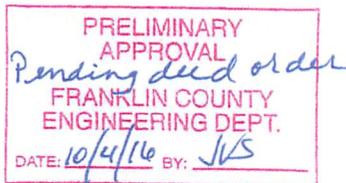
EVANS, MECHWART, HAMBLETON & TILTON, INC.

Matthew A. Kirk

3 OCT 16

Matthew A. Kirk
Professional Surveyor No. 7865

MAK:mm
1_082 ac 20160001-VS-BNDY-02.doc





Prepared: 10/06/16
Introduced: 10/18/16
Revised:
Adopted:
Effective:

RESOLUTION R-44-2016

A RESOLUTION TO APPROVE AN AGREEMENT AND AUTHORIZE THE ADMINISTRATOR TO SIGN THE AGREEMENT WITH GHGCC COLI, LLC (GREEN HARBOR DATA CENTERS) TO PROVIDE INCENTIVES AVAILABLE FOR PROJECT DEVELOPMENT IN THE CENTRAL COLLEGE COMMUNITY REINVESTMENT AREA

WHEREAS, the city, having the appropriate authority for this project, is desirous of providing incentives available for the development of the project in the Community Reinvestment Area (the "CRA"); and

WHEREAS, GHGCC COLI, LLC, (the "company") has remitted, with the Agreement Application, the required state application fee of \$750.00 made payable to the Ohio Development Services Agency to be forwarded to that entity with a copy of the final agreement; and

WHEREAS, GHGCC COLI, LLC and city representatives have submitted a proposed agreement (the "Agreement") for consideration by the City Council; and

WHEREAS, the Housing Officer under the Revised Code Section 3735.65 has reviewed the Agreement Application of the company and recommends the same on the basis that the owner is qualified by financial responsibility and business experience to create and preserve employment opportunities in the CRA and improve the economic climate of the city; and

WHEREAS, the Board of Education of the New Albany Plain Local School District and the Fairfield Eastland Career and Technical Center have been notified in accordance with the applicable law; and

WHEREAS, pursuant to Ohio Revised Code Section 3735.67(A) and in conformance with the format required under the Ohio Revised Code Section 3735.671(B), the parties hereto desire to set forth their agreement with respect to matters hereinafter contained; and

NOW, THEREFORE, BE IT RESOLVED by Council for the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. The city manager is hereby authorized to execute the Agreement and directed to take any further actions, and execute and deliver any further agreements, certificates or documents necessary to accomplish the granting of the incentives described in the Agreement, provided further that the approval of changes thereto by the city manager and their character as not being substantially adverse to the city shall be evidenced conclusively by the execution thereof.

Section 2. That it is hereby found and determined that all formal actions of this council concerning and relating to the passage of this resolution were adopted in an open meeting of this council and that all deliberations of this council and any decision making bodies of the City of New Albany which resulted in

such formal actions were in meetings open to the public or in compliance with all legal requirements of the City of New Albany, Franklin County, Ohio.

Section 3. Pursuant to Article 6.07 of the New Albany Charter, this Resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2016.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED