



Prepared: 03/22/2019
Introduced: 04/02/2019
Revised:
Adopted: 04/16/2019
Effective: 05/17/2019

ORDINANCE O-11-2019

AN ORDINANCE TO ACCEPT A CONSERVATION EASEMENT OF 2.323 ACRES, AS REQUESTED BY MBJ HOLDINGS LLC

WHEREAS, MBJ Holdings LLC has obtained a permit from the U.S. Army Corps of Engineers that requires the protection of certain wetlands and watercourses in the general vicinity of the project; and

WHEREAS, to provide this protection, this permit requires the creation and recording of a conservation easement over this project; and

WHEREAS, a public entity must be the recipient (grantee) of such easement in order to ensure that the purposes of the easement is fulfilled; and

WHEREAS, the city will be the recipient (grantee) of one conservation easement totaling +/-2.3 acres.

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

Section 1. Council hereby accepts the conservation easement (2.323 acres) as to parcel 222-004864. This conservation easement, as described herein and attached hereto as Exhibit 1, shall operate to preserve and protect the subject property in perpetuity and prohibit commercial and industrial activities; construction or placement of any man-made structures or modifications such as buildings, fences, roads and parking lots; cutting vegetation including trees, ground cover directly or by use of chemicals except as allowed under relevant permits or to treat invasive species; land or surface alteration including removal of soil, sand, gravel, minerals or otherwise altering the topography; dumping of any kind; altering natural water courses; and any other activity which endangers the natural, scenic, biological or ecological integrity of the conservation easement areas.

Section 2. The city manager is hereby authorized to execute and accept the Conservation Easement referenced in Section 1, herein and attached hereto as Exhibit A.

Section 3. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation 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 6.07(b) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this 16th day of April, 2019.

Attest:



Sloan T. Spalding
Mayor



Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchefsky
Law Director

Exhibit 1

EXHIBIT A - O-11-2019

CONSERVATION EASEMENT AGREEMENT

This Conservation Easement Agreement ("Agreement") is made to be effective on the last date of signature below (the "Effective Date"), by and between **AEP OHIO TRANSMISSION COMPANY, INC.**, an Ohio corporation having its address at 1 Riverside Plaza, Columbus, Ohio 43215 ("Grantor"), and the **CITY OF NEW ALBANY, OHIO**, an Ohio municipal corporation having its address at 99 W. Main Street, New Albany, Ohio 43054 ("Grantee").

RECITALS:

WHEREAS, Grantor is the sole owner in fee simple of certain real property known as Franklin County Auditor's Tax Parcel Number _____ and being more particularly described in Instrument Number _____, which is of record with the Recorder's Office, Franklin County, Ohio (the "Property"); and

WHEREAS, Grantor desires to convey to Grantee the right to preserve and protect, in perpetuity, the conservation values of that limited portion of the Property that is generally depicted in Exhibit A attached hereto and made a part hereof and is more particularly described in Exhibit B attached hereto and made a part hereof (the "Conservation Easement Area"); and

WHEREAS, this Agreement and the Conservation Easement (as such term is defined below) created hereby is required by Nationwide Permit #27 (Stream Restoration) issued to MBJ Holdings, LLC, a Delaware limited liability company ("MBJ") by the U.S. Army Corps of Engineers ("USACE") on February 26, 2019 (the "Permit"). As a condition of this Permit and related application materials, a watercourse and adjacent areas must be protected by a conservation easement and this Agreement is intended to satisfy this condition. MBJ, as the permittee of the Permit, shall receive the benefit of and credit for the stream restoration performed on the Property. In addition, the Conservation Easement Area established under this Agreement may be used to satisfy similar watercourse preservation or mitigation requirements pursuant to similar permits issued or to be issued in the future to MBJ or MBJ's affiliated entities.

NOW THEREFORE, in consideration of the foregoing premises and the mutual promises and covenants contained herein, the parties hereto agree as follows:

AGREEMENT:

1. **Grant of Easement:** Grantor hereby grants and conveys to Grantee an estate, interest, and easement in and to the Conservation Easement Area of the nature and character and to the extent hereinafter expressed (the "**Conservation Easement**"), to be and to constitute a servitude upon that portion of the Property located within the boundaries of the Conservation Easement Area, which estate, interest, and easement will result from the covenants and restrictions set forth herein. To this end and for the purpose of accomplishing the intent of the parties hereto, Grantor covenants with and for the benefit of Grantee, on behalf of Grantor, its successors and assigns, to do and refrain from doing, severally and collectively, upon the Conservation Easement Area, the various acts hereinafter described.

2. **Term of Easement:** The Conservation Easement granted hereunder shall be perpetual to the extent permitted by law and shall have no expiration date. Notwithstanding the foregoing, Grantor shall be permitted to encroach onto the Conservation Easement Area for the purpose of constructing (and, as necessary in the future, maintaining and replacing) (i) private access drives (each individually an "**Access Crossing**" and collectively the "**Access Crossings**"), and (ii) buried and/or overhead utility lines and storm water drainage piping or culverts (each individually a "**Utility Crossing**" and collectively the "**Utility Crossings**"). The areas subject to any Access Crossing shall not be included in the Conservation Easement. At such time or from time to time as any Access Crossing is identified, Grantee shall have the right to execute, without any consent or signature being required by any other party, an amendment to this Agreement removing and releasing the real property utilized for the Access Crossing from the Conservation Easement Area. Any such amendment shall be recorded in the Recorder's Office, Franklin County, Ohio. The aggregate of all Access Crossings shall not remove more than fifty linear feet (50 LF) of stream. Each Access Crossing shall cross the stream in an approximately perpendicular manner in so far as is reasonably practicable. Grantor shall restore (i) all pre-construction contours and (ii) all vegetation within the Conservation Easement that has been damaged or removed during construction of the Utility Crossings, as follows:

- a. Disturbed areas shall be seeded with the permanent, native seed mix specified in the plans approved by the USACE in connection with the Permit;
- b. Trees and shrubs shall be replaced on a one-for-one basis; and
- c. Trees and shrubs shall be chosen from the plant list specified in the plans approved by the USACE in connection with the Permit.

3. **Conservation Values:** The Conservation Easement Area possesses substantial value in conserving and protecting the physical, biological, chemical and overall ecological integrity of the real property that it encompasses and is important in the protection of the existing or designed use of the waters of the State of Ohio pursuant to Section 303 of the Clean Water Act, 33 U.S.C Section 1313 and Section 6111.041 of the Ohio Water Pollution Control Act.

4. **Prohibited Actions:** Any activity on or use of the Conservation Easement Area that is inconsistent with the purposes of the Conservation Easement or detrimental to the conservation values expressed herein is strictly prohibited. By way of example, and not of limitation, the following activities and uses are prohibited within the Conservation Easement Area, except as permitted or required by the Permit, or except as necessary to allow for future stream crossings and related work as contemplated in Section 2, above:

- a. **Commercial Activities:** Commercial development or industrial activity;
- b. **Construction:** The placement or construction of any man-made modifications such as buildings, structures, fences, roads and parking lots;
- c. **Cutting Vegetation:** Any cutting of trees, ground cover or vegetation, or destroying by any means of herbicides or pesticides;
- d. **Land Surface Alteration:** The removal of soil, sand, gravel, rock, minerals or other materials, or doing any act that would alter the topography of the Conservation Easement Area;
- e. **Dumping:** The placement of waste, garbage and unsightly or offensive materials;
- f. **Water Courses:** Dredging, straightening, filling, channeling, impeding, diverting, or otherwise altering any natural water courses, streams and adjacent riparian buffers located within the Conservation Easement Area;
- g. **Utilities:** The installation of new transmission lines for electric power, communications, and natural gas or petroleum products; and
- h. **Other Activities:** Each and every other activity or construction project which endangers the natural, scenic, biological, or ecological integrity of the Conservation Easement Area.

5. **Rights of Grantee:** Grantor confers upon Grantee the following rights to perpetually maintain the conservation values of the Conservation Easement Area:

- a. **Right to Enter:** Grantee has the right to enter upon the Conservation Easement Area at reasonable times to monitor or to enforce compliance with this Agreement, provided that such entry shall occur after prior reasonable notice is provided to Grantor and appropriate consideration is given to the reasonable security or safety requirements of Grantor. To the extent reasonably possible, entry shall be made from a public right-of-way. Grantee may not enter upon the Property (other than the

Conservation Easement Area) or unreasonably interfere with Grantor's use and quiet enjoyment of the Property. Grantee shall not have the right to permit others to enter the Conservation Easement Area. The general public is not granted access to the Conservation Easement Area or the Property under this Agreement.

- b. **Right to Preserve:** Grantee has the right to prevent any activity on or use of the Conservation Easement Area that is inconsistent with the terms or purposes of this Agreement. Nothing herein, however, is intended to place any restrictions on the use or development of those portions of the Property located outside of the boundaries of the Conservation Easement Area.
- c. **Right to Require Restoration:** Grantee shall have the right to require the restoration of the areas or features of the Conservation Easement Area which are damaged by any activity inconsistent with the requirements of this Agreement. Grantee's rights under this paragraph shall include, but shall not be limited to, the right to initiate any proceedings or actions in law or equity as are necessary to enforce the terms of this Agreement or facilitate the restoration of the Conservation Easement Area.
- d. **Signs:** Grantee shall have the right to place signs within the Conservation Easement Area which identify the land as being protected by the Conservation Easement. The number, size and content of any such signs are subject to the prior approval of the owner of the Conservation Easement Area, which shall not be unreasonably conditioned, delayed or withheld. Grantee reserves the right to post or clearly mark the boundaries of the Conservation Easement Area at locations that are mutually agreed upon with the owner of the Conservation Easement Area.

Notwithstanding the removal of any real property utilized for a Crossing from the Conservation Easement Area, as contemplated by Section 2 above, Grantee shall have a license to enter upon any Crossing for the limited purpose of accessing any portion of the remaining Conservation Easement Area as may be necessary to exercise the rights set forth in this Section 5.

6. **Permitted Uses:** Grantor reserves to itself, and to its successors and assigns, with respect to the Conservation Easement Area, all rights accruing from its ownership of the Conservation Easement Area, including the right to engage in or permit or invite others to engage in all uses of the Conservation Easement Area that are not expressly prohibited herein and are not inconsistent with the purposes of this Agreement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- a. **Right to Convey:** The right to sell, mortgage, bequeath, donate or otherwise convey any or all portions of the Property, including, without limitation, the Conservation Easement Area. Any conveyance shall remain subject to the terms and conditions of this Agreement and the subsequent interest holder shall be bound by the terms and conditions hereof.
- b. **Right to Access:** The right to unimpeded access to the Conservation Easement Area. In addition, vehicular and pedestrian crossings of the Conservation Easement Area shall be permitted, but only if all relevant permits and permissions are first obtained from the Ohio Environmental Protection Agency (the "Ohio EPA") and/or the USACE.
- c. **Use of Property:** Except as provided in the last paragraph of Section 5 above, the portions of the Property located outside of the boundaries of the Conservation Easement Area are not subject to the restrictions of the Conservation Easement created hereunder. Grantor shall be permitted to use and develop all portions of the Property under its ownership which are located outside of the boundaries of the Conservation Easement Area without restriction.

7. **Grantee's Remedies:** In the event of a breach of this Agreement, Grantee shall have the following remedies and shall be subject to the following limitations:

- a. **Delay in Enforcement:** A delay in enforcement shall not be construed as a waiver of Grantee's rights to enforce the terms of this Agreement.
- b. **Acts Beyond Grantor's Control:** Grantee may not bring an action against Grantor for modifications to the Conservation Easement Area which result from causes beyond its control. Examples include, without limitation, unintentional fires, storms, natural earth movement, trespassers, or a party's well-intentioned actions in response to an emergency which result in changes to the Conservation Easement Area. Grantor shall have no responsibility under this Agreement for such unintended modifications. Grantee may, however, bring an action against another party for modifications that impair the conservation values identified in this Agreement.
- c. **Notice and Demand:** If Grantee determines that a person or entity is in violation of the terms of the Conservation Easement or this Agreement, or that a violation is threatened, then it shall provide written notice via certified mail to such person or entity. The written notice shall identify the

violation and request corrective action to cure the violation or restore the relevant real property.

- d. **Failure to Act:** If, for a thirty (30) day period after the date of written notice provided pursuant to subparagraph c. above, the person or entity continues violating the terms of the Conservation Easement or this Agreement, or if the person or entity does not abate the violation or begin to implement corrective measures within the foregoing thirty (30) day period requested by Grantee, or fails to continue to diligently cure such violation until finally cured, Grantee shall be permitted to bring an action in law or in equity to enforce the terms of the Conservation Easement or this Agreement and recover any damages for the loss of the conservation values protected hereunder. Grantee is also entitled to bring an action to enjoin the violation through injunctive relief, seek specific performance, declaratory relief, restitution, reimbursement of expenses or an order compelling restoration of the Conservation Easement Area. If a court determines that the person or entity has failed to comply with the terms of the Conservation Easement or this Agreement, then Grantee may seek an order requiring the person or entity to reimburse all reasonable costs and attorneys' fees incurred by Grantee in compelling such compliance.
- e. **Unreasonable Litigation:** If Grantee initiates litigation against Grantor to enforce this Agreement, and if the court determines that the litigation was without reasonable cause or in bad faith, then Grantee is to reimburse such parties' reasonable costs and attorneys' fees incurred in defending the action.
- f. **Grantor's Absence:** If Grantee determines that the terms of the Conservation Easement or the Agreement is, or is expected to be, violated, then Grantee will make a good faith effort to notify Grantor. If, through reasonable efforts, Grantor cannot be notified, and if Grantee determines that emergency circumstances exist that justify prompt action to mitigate or prevent impairment of the Conservation Easement, then Grantee may pursue its lawful remedies without prior notice and without awaiting a response from Grantor.
- g. **Cumulative Remedies:** The preceding remedies of Grantee are cumulative. Any or all of the remedies may be invoked by Grantee if there is an actual or threatened violation of this Agreement.

8. **Ownership Costs and Liabilities:** Except as otherwise required by this Agreement, in accepting the Conservation Easement, Grantee shall have no liability or other obligation for costs, liabilities, taxes or insurance of any kind related to the Conservation Easement Area. Grantee and its administrators, officers and employees shall have no liability

arising from injury or death to any person or from physical damage to any other property located within the Conservation Easement Area or otherwise.

9. **Remediation:** If, at any time, there occurs, or has occurred, a release in, on, or about the Conservation Easement Area of any substance now or hereafter defined, listed, or otherwise classified, and in excess of any amount permitted pursuant to any federal, state, or local law, regulation, or requirement, or in an amount that is hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, then the owner(s) of the Conservation Easement Area shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

10. **Cessation of Existence:** If Grantee shall cease to be authorized to acquire and hold conservation easements, then this Agreement shall become vested in another qualified entity that is eligible to acquire and hold a conservation easement under Ohio law, upon the consent of the owner of the Conservation Easement Area and the Ohio EPA and such vesting shall be deemed an assignment pursuant and subject to Section 13 of this Agreement. The owner of the Conservation Easement Area shall execute and deliver such documents and instruments as may be necessary to properly reflect the substitution or replacement of Grantee hereunder.

11. **Termination:** The Conservation Easement may be extinguished only by an unexpected change in condition which causes it to be impossible to fulfill the Conservation Easement's purposes, or by exercise of eminent domain. If subsequent circumstances render the purposes of the Conservation Easement impossible to fulfill, then the Conservation Easement and this Agreement may be partially or entirely terminated only by judicial proceedings initiated by the owner of the Conservation Easement Area or Grantee.

12. **Recordation:** Grantor shall cause this instrument to be recorded in a timely fashion in the Recorder's Office, Franklin County, Ohio, and Grantee may re-record it at any time as may be required to preserve its rights in this Agreement.

13. **Assignment:** This Agreement is transferable, but Grantee may assign its rights and obligations hereunder only to an organization mutually agreed to by the fee simple owners of the Conservation Easement Area, Ohio EPA, and the transferee, provided that the organization is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended, (or any successor provision then applicable) and authorized to acquire and hold conservation easements under Ohio law. As a condition of such transfer, Grantee shall require that the transferee organization must agree in writing to assume all of Grantee's obligations and duties hereunder and to carry out the conservation purposes that this grant is intended to advance. Grantee agrees to give written notice to the owner(s) of the Conservation Easement Area of a transfer or an assignment at least twenty (20) days prior to the date of such transfer or assignment and to furnish promptly to such owner(s) an executed copy of

the assignment and assumption agreement to be recorded by Grantee after the expiration of such 20-day notice period in the Recorder's Office, Franklin County, Ohio. The failure of Grantee to give such notice shall not affect the validity of this Agreement nor limit its enforceability in any way.

14. **Liberal Construction:** This Agreement shall be liberally construed in favor of maintaining the conservation values of the Conservation Easement Area. The section headings and subheadings identified herein are for reference purposes only and shall not be used to interpret the meaning of any provision hereof.

15. **Notices:** For purposes of this Agreement, notices shall be provided to the parties, by personal delivery or by mailing a written notice via certified mail, return receipt requested, to that party at the address shown at the outset of this Agreement, or with respect to any successors or assigns of Grantor, to the tax mailing address of the relevant party as evidenced in the records of the Office of the Auditor of Franklin County, Ohio. Notice is deemed given upon (i) personal delivery or (ii) two days after depositing the properly addressed notice with the U.S. Postal Service.

16. **Severability:** If any portion of this Agreement is determined to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

17. **Successors:** This Agreement and the Conservation Easement created hereunder shall be a covenant running with the land and shall constitute a burden on the Conservation Easement Area and shall run to the benefit of the parties hereto and their respective successors or assigns in interest. All subsequent owners of the Conservation Easement Area shall be bound to all provisions of this Agreement to the same extent as the current parties.

18. **Termination of Rights and Obligations:** A party's rights and obligations under this Agreement shall terminate upon the transfer of its interest in the Conservation Easement Area. Liability for acts or omissions occurring prior to transfer shall survive any such transfer.

19. **Applicable Law:** This Agreement shall be governed by and construed in accordance with the substantive law of the State of Ohio, irrespective of its conflict of law provisions.

20. **"As Is" Condition:** Grantee has examined the Conservation Easement Area and agrees to accept the "AS-IS" condition of the same for purposes of this Agreement.

21. **Site Monitoring:** The Conservation Easement Area shall be inspected by Grantee at a minimum of one time annually.

22. **No Merger:** The Conservation Easement provided under this Agreement is intended to facilitate the perpetual protection of the Conservation Easement Area as provided

herein. No easement granted or enjoyed hereunder shall be eliminated through the doctrine of merger as the result of Grantee holding title to and/or having ownership of the Conservation Easement Area.

[Remainder of this page intentionally left blank; Signature pages to follow]

IN WITNESS WHEREOF, Grantor has set its hand to this Agreement as of the date written below, to be effective as of the Effective Date.

GRANTOR:

AEP OHIO TRANSMISSION COMPANY, INC.,
an Ohio corporation

By: _____

Print Name: _____

Date: _____

STATE OF OHIO
COUNTY OF FRANKLIN

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the _____ of **AEP Ohio Transmission Company, Inc.**, an Ohio corporation, on behalf of the corporation.

Notary Public

IN WITNESS WHEREOF, Grantee has set its hand to this Agreement as of the date written below, to be effective as of the Effective Date.

GRANTEE:

THE CITY OF NEW ALBANY, OHIO,
an Ohio municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

STATE OF OHIO
COUNTY OF FRANKLIN

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the _____ of The City of New Albany, Ohio, an Ohio municipal corporation, on behalf of said municipal corporation.

Notary Public

Approved as to Form:

Mitchell Banchevsky, City Law Director

This instrument prepared by:
Underhill & Hodge LLC
8000 Walton Parkway, Suite 260
New Albany, Ohio 43054
(614) 335-9320

CONSERVATION EASEMENT
QUARTER TOWNSHIP 4, TOWNSHIP 2, RANGE 16
UNITED STATES MILITARY LANDS
CITY OF NEW ALBANY, COUNTY OF FRANKLIN, STATE OF OHIO

Date: March 19, 2019

Scale: 1" = 200'

Job No: 2018-1506

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S71°24'47"E	26.52'
L2	N84°55'04"E	39.49'
L3	N63°48'47"E	24.06'
L4	S51°01'12"E	87.08'
L5	S74°38'10"E	100.93'
L6	S88°45'01"E	66.41'
L7	N81°09'38"E	47.12'
L8	N72°15'29"E	111.54'
L9	N81°19'14"E	61.62'
L10	N89°43'36"E	15.03'

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[F] = FRANKLIN COUNTY
[L] = LICKING COUNTY
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GRAPHIC SCALE (in feet)

200 0 200 400

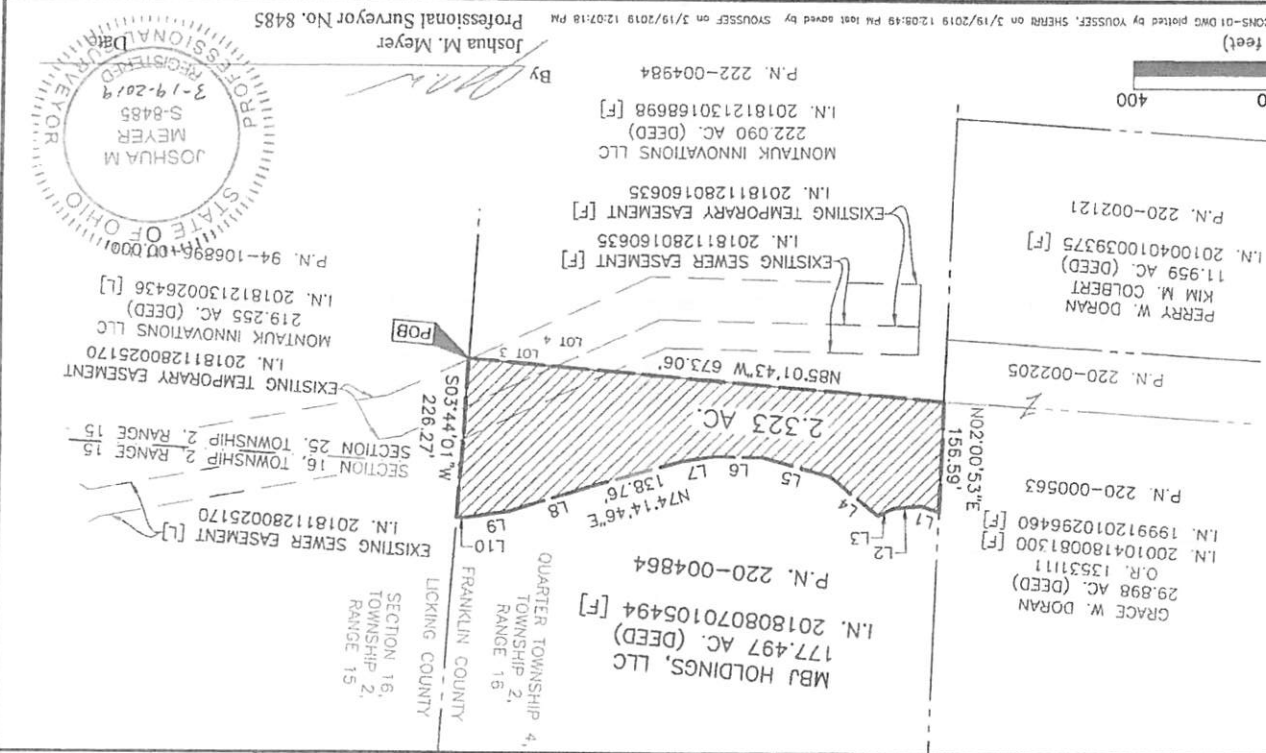


Exhibit B

CONSERVATION EASEMENT 2.323 ACRES

Situated in the State of Ohio, County of Franklin, City of New Albany, lying in Quarter Township 4, Township 2, Range 16, United States Military Lands, being on, over, and across that 177.497 acre tract of land conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201808070105494, (all references are to the records of the Recorder's Office, Franklin County, Ohio, unless otherwise noted) and being more particularly described as follows:

BEGINNING at the common corner of Lots 3 and 4, in the common County Line of Franklin and Licking Counties, being the northeasterly corner of that 222.090 acre tract conveyed to Montauk Innovations LLC by deed of record in Instrument Number 201812130168698;

Thence North 85° 01' 43" West, with the line common to said Lots 3 and 4, the northerly line of said 222.090 acre tract, a distance of 673.06 feet to a point in the easterly line of that 29.898 acre tract conveyed to Grace W. Doran by deed of record in Official Record 13531111 and Instrument Numbers 200104180081300 and 199912010296460;

Thence North 02° 00' 53" East, with said easterly line, a distance of 156.59 feet to a point;

Thence across said 177.497 acre tract, the following courses and distances:

South 71° 24' 47" East, a distance of 26.52 feet to a point;

North 84° 55' 04" East, a distance of 39.49 feet to a point;

North 63° 48' 47" East, a distance of 24.06 feet to a point;

South 51° 01' 12" East, a distance of 87.08 feet to a point;

South 74° 38' 10" East, a distance of 100.93 feet to a point;

South 88° 45' 01" East, a distance of 66.41 feet to a point;

North 81° 09' 38" East, a distance of 47.12 feet to a point;

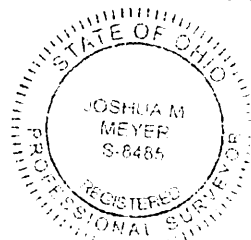
North 74° 14' 46" East, a distance of 138.76 feet to a point;

North 72° 15' 29" East, a distance of 111.54 feet to a point;

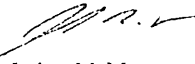
North 81° 19' 14" East, a distance of 61.62 feet to a point;

North 89° 43' 36" East, a distance of 15.03 feet to a point in said common County Line;

Thence South 03° 44' 01" West, with said common County Line, a distance of 226.27 feet to the POINT OF BEGINNING, containing 2.323 acres, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.


Joshua M. Meyer
Professional Surveyor No. 8485

3-19-2019

Date



Prepared: 04/04/2019
Introduced: 04/16/2019
Revised:
Adopted: 04/16/2019
Effective: 04/16/2019

RESOLUTION R-21-2019

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO PARTICIPATE IN THE ODOT ROAD SALT CONTRACT (018-20)

WHEREAS, the City of New Albany, Franklin and Licking Counties, (hereinafter referred to as the "Political Subdivision") hereby submits this written agreement to participate in the Ohio Department of Transportation's (ODOT) annual road salt bid in accordance with Ohio Revised Code 5513.01(B) and hereby agrees to all of the following terms and conditions in its participation of the ODOT road salt contract:

- a. The Political Subdivision hereby agrees to be bound by all terms and conditions established by ODOT in the road salt contract and acknowledges that upon award of the contract by the Director of ODOT it shall be bound by all such terms and conditions included in the contract; and
- b. The Political Subdivision hereby acknowledges that upon the Director of ODOT's signing of the road salt contract, it shall effectively form a contract between the awarded salt supplier and the Political Subdivision; and
- c. The Political Subdivision agrees to be solely responsible for resolving all claims or disputes arising out of its participation in the ODOT road salt contract and agrees to hold the Department of Transportation harmless for any claims, actions, expenses, or other damages arising out of the Political Subdivision's participation in the road salt contract; and
- d. The Political Subdivision's electronic order for Sodium Chloride (Road Salt) will be the amount the Political Subdivision agrees to purchase from its awarded salt supplier at the delivered bid price per ton awarded by the Director of ODOT; and
- e. The Political Subdivision hereby agrees to purchase a minimum of 90% of its above-requested salt quantities from its awarded salt supplier during the contract's effective period; and
- f. The Political Subdivision hereby agrees to place orders with and directly pay the awarded salt supplier on a net 30 basis for all road salt it receives pursuant to ODOT salt contract; and
- g. The Political Subdivision acknowledges that should it wish to rescind this participation agreement it will do so by written, emailed request by no later than Friday, April 19 by 12:00 p.m. The written, emailed request to rescind this participation agreement must be received by the ODOT Office of Contract Sales, Purchasing Section email: Contracts.Purchasing@dot.ohio.gov by the deadline. The Department, upon receipt, will respond that it has received the request and that it has effectively removed the Political Subdivision's participation request. Furthermore, it is the sole responsibility of the Political Subdivision to ensure ODOT has received this participation agreement as well as the

receipt of any request to rescind this participation agreement. The Department shall not be held responsible or liable for failure to receive a Political Subdivision's participation agreement and/or a Political Subdivision's request to rescind its participation agreement.

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

Section 1. The above participation agreement for the ODOT road salt contract is hereby approved, funding has been authorized, and the City of New Albany ("Political Subdivision") agrees to the above terms and conditions regarding participation on the ODOT salt contract.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation 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 resolution shall be effective immediately upon passage

CERTIFIED AS ADOPTED this 16th day of April, 2019.

Attest:


Sloan T. Spalding,
Mayor

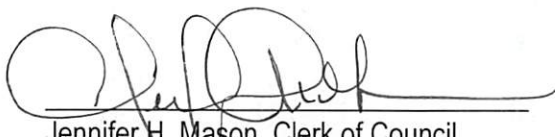

Jennifer H. Mason,
Clerk of Council

Approved as to form:


Mitchell H. Banchevsky
City Attorney

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

I certify that copies of Resolution R-21-2019 were posted for 30 days starting on 4/17/19, 2019.


Jennifer H. Mason, Clerk of Council

4/17/19
Date



Prepared: 04/04/2019
Introduced: 04/16/2019
Revised:
Adopted: 04/16/2019
Effective: 04/16/2019

RESOLUTION R-22-2019

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE CITY OF NEW ALBANY, OHIO WITH THE FIRM OF KINDRED SPIRITS INVESTMENT MANAGEMENT, LLC, DOING BUSINESS AS REDTREE INVESTMENT GROUP TO PROVIDE INVESTMENT MANAGEMENT AND ADVISORY SERVICES TO THE CITY

WHEREAS, the City of New Albany has a need for investment management and advisory services for its growing portfolio; and

WHEREAS, the city desires to coordinate with an investment manager on an on-going basis, for the deployment and management of securities and investments in accordance with the city's investment policy to continually grow the city's portfolio; and

WHEREAS, New Albany Capital (formerly Gummer & Lewis Investment Counsel, LLC), has been the investment advisor to the City of New Albany since approximately 2001; and

WHEREAS, New Albany Capital has now merged with Kindred Spirits Investment Management, LLC, doing business as RedTree Investment Group; and

WHEREAS, the city desires to maintain the current individual investment advisor and enter into a new professional services contract with RedTree Investment Group; and

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 city manager is hereby authorized to execute a professional services agreement with Kindred Spirits Investment Management, LLC, doing business as RedTree Investment Group to provide investment management and advisory services to the City of New Albany, for the period of three years, with the ability to renew for successive one year periods, unless otherwise terminated (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 resolution 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 resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this 16th day of April, 2019.

Attest:



Sloan T. Spalding
Mayor



Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchefsky
Law Director

REDTREE INVESTMENT GROUP
Investment Management Agreement

Kindred Spirits Investment Management, LLC, doing business as RedTree Investment Group (the “Adviser”), is a registered investment adviser under the Investment Advisers Act of 1940, as amended (the “Advisers Act”). In consideration of the agreements herein, the undersigned, **City of New Albany** (the “Client”), hereby retains Adviser to provide advice and supervision for Client’s investment portfolio managed by Adviser (the “Account”) consistent with its duties and obligations under the Advisers Act. Client recognizes that risk is inherent in any investment in securities and that Adviser cannot guarantee any level of return on the investment capital in the Account.

1. Investment Management. Adviser will invest and reinvest the securities, cash and/or other investments held in the Account in accordance with the investment guidelines and policy statement (the “Investment Guidelines”) attached hereto as Addendum A, and as amended from time to time by Client. Adviser shall not be liable for the establishment of the Investment Guidelines and shall have no responsibility for the management of any assets other than those in the Account which are designated for management by Adviser.

In connection with the advisory services being provided to Client, Adviser is entitled to rely on the financial and other information supplied by Client. Client agrees to provide such information as Adviser may require and to inform Adviser in writing of any material change in circumstances which might materially affect the manner in which Account assets should be invested and to provide Adviser with such other information as Adviser may reasonably request.

The portfolio manager or other personnel knowledgeable about the Account will be reasonably available to assist the Client during regular business hours. The Client will receive periodic statements regarding the Account. Client agrees to notify Adviser promptly regarding any questions or concerns about any item in such statement.

2. Trading Authorization. Subject to any limitations imposed by the Investment Guidelines, Adviser shall have full discretionary authority and shall act as agent and attorney-in-fact with respect to the Account. Pursuant to such authorization, and in accordance with the Investment Guidelines, Adviser may, in its sole discretion and at Client’s risk, purchase, sell, exchange, convert and otherwise trade the securities and other investments in the Account, as well as arrange for delivery and payment in connection with the above, and act on Client’s behalf in all matters necessary or incidental to the handling of the Account. This trading authorization shall remain in full force and effect until terminated by either party pursuant to the provisions of paragraph 8 of this Agreement. The termination of the trading authorization will constitute a termination of this Agreement.

3. Execution Services. Unless instructed in writing to the contrary, and to the extent consistent with Adviser’s duty to obtain best execution, Adviser will select the broker/dealer(s) to provide execution services relative to the purchase and/or sale of securities for the Account. Client hereby authorizes Adviser to effect transactions in the Account through such unaffiliated broker/dealers as Adviser may select consistent with its fiduciary duties to the extent permitted by law.

Unless instructed in writing to the contrary, any specification of a broker or dealer by Client indicates a preference for such broker or dealer but does not constitute a direction requiring order execution through such broker or dealer. Client understands that Adviser negotiates commissions for transactions, and that in doing so Adviser may consider, where applicable, such factors as Client preferences; research services; execution capability; commission rates; financial standing of executing firm; timeliness in rendering services; availability, cost and quality of custodial services; and continuity in providing such services. Client also understands that commission levels vary among brokers or dealers and differ according to the size and type of transactions. Any direction or Client preference of a specific broker or dealer may affect Adviser’s ability to negotiate commissions and may result in a disparity between the Client’s commission charges and those which might otherwise be obtainable by Adviser.

Client understands that Adviser performs, among other things, investment advisory services for other clients. Client recognizes that Adviser may give advice and take action in the performance of its duties to clients (including other Adviser’s clients) that may differ from advice given, or in the timing and nature of action taken, with respect to Client. Nothing in this Agreement shall be deemed to impose any obligation on Adviser to purchase or sell, or recommend for purchase or sale, for Client any securities or other investments which Adviser or any affiliates may purchase or sell, or recommend for purchase or sale, for its or their own account, or for the account of any other client.

4. Custody. The Client shall appoint a custodian (the "Custodian") to have possession of the assets of the Account and settle transactions for the Account. The Client agrees to instruct the Custodian to accept instructions from Adviser regarding the assets in the Account, notify Adviser as to the identity of the Custodian, provide Adviser with reasonable advance notice of any subsequent changes in the Custodian, and, to the extent applicable, to disburse fees due hereunder to Adviser. The Client agrees to notify Adviser promptly of any additions to, or withdrawals from the Account, and the Client agrees to instruct Adviser to notify the Custodian of any additions to, or withdrawals from, the Account. The Client shall be responsible for all custodial arrangements, all acts and omissions of the Custodian, and all direct expenses of the Account (e.g., custodian's fees, brokerage expenses). Client should review all account statements provided by such Custodian and compare those account statements to any account statements provided by Adviser.

5. Fees. The Client agrees to pay Adviser a quarterly fee in arrears for its services hereunder computed and payable in accordance with Addendum B attached hereto. It is understood that the fee schedule indicated in Addendum B may be changed from time to time by Adviser upon at least ninety (90) days' prior written notice to the Client. In computing the market value of any investment of the Account, each security shall be valued in a manner determined in good faith by Adviser to reflect its fair market value. If Adviser receives reports from the custodian setting forth current market prices or values of the assets, Adviser may rely on that information without verification in determining the fair market value of the assets in the Client's account.

Client's account may be invested, from time to time, in underlying investments (e.g., money market mutual funds, etc.) that have their own fees and expenses that are borne either directly or indirectly by their shareholders or unit holders, including Client. These fees and expenses are separate from, and in addition to, the other fees payable to Adviser by Client. As a result of making such investments in these types of funds, Client should be aware that Client is paying multiple layers of fees on the amount of Client's assets so invested—the fees and expenses charged by the funds and the fees and other compensation that Client pays to Adviser.

6. Directions to Adviser. If this Agreement is entered into by a trustee or other fiduciary, the trustees or other fiduciary acting on behalf of the Client represents that the services contemplated by this contract are within the scope of the investments authorized pursuant to any applicable plan, trust and/or applicable law and that the person signing below is duly authorized to negotiate the terms of this Agreement, including fees, and to enter into (and renew) this Agreement. Client warrants that any securities delivered to Adviser are free of any encumbrances, including constructive liens. If the signatory is acting on behalf of a corporation, the signatory represents that the execution of this Agreement has been duly authorized by appropriate corporate action. Client agrees to notify Adviser promptly in writing of any event which might affect this authority or the propriety of this Agreement.

7. Proxies and other Legal Notices. Unless otherwise specified in writing by the Client, Adviser shall vote all proxies at its discretion and in accordance with its proxy voting guidelines. Adviser is authorized, but is not required, to take any action or render any advice with respect to securities presently or formerly held in the Account, or the issuers thereof, which become the subject of any legal proceedings, including bankruptcies.

8. Termination of Agreement. This Agreement shall remain in effect for three years from the signed date of this Agreement on page 4. Unless otherwise terminated as provided for herein, the Agreement shall thereafter automatically renew for successive one year periods. This Agreement may be terminated upon at least thirty (30) days' prior written notice by either party to the other and termination will become effective upon receipt of such notice; provided, however, that Client may terminate discretion on the Account at any time by providing written notice as specified herein to Adviser. Client will send additional copies any such notice of termination to the address listed in section 14. Such termination will not, however, affect the liabilities or obligations of the parties under this Agreement arising from transactions initiated prior to such termination and Adviser shall retain amounts in the Account sufficient to effect completion of such transactions. Upon the termination of this Agreement, Adviser shall be under no obligation whatsoever to recommend any action with regard to, or to liquidate the securities or other investments in the Account.

9. Non-Assignability. This Agreement may not be assigned (within the meaning of the Advisers Act) by Adviser without the prior written consent of Client.

10. Governing Law. This Agreement shall be governed by the laws of the State of Ohio applicable to agreements fully executed and to be performed therein exclusive of conflicts of law, provided, however, that nothing herein shall be construed in any manner inconsistent with the Advisers Act, or any rule, regulation or order of the Securities and Exchange Commission promulgated thereunder.

11. Entire Agreement. This Agreement represents the entire agreement between the parties with regard to the matters described herein and may not be modified or amended except by a writing signed by the party to be charged except as otherwise noted herein.

12. Severability. If any provision of this Agreement shall be held or made invalid by a statute, rule, regulation, decision of a tribunal or otherwise, the remainder of this Agreement shall not be affected thereby and, to this extent, the provisions of this Agreement shall be deemed to be severable.

13. Reserved.

14. Notice. All notices, requests, instructions or other communications required or permitted under this Agreement shall be given in writing (and shall be deemed to have been duly given upon receipt) by delivery in person, by facsimile, by registered or certified mail (postage prepaid, return receipt requested), by electronic mail, or by overnight delivery to the respective parties as follows:

If to the Client:

City of New Albany

99 West Main Street

New Albany, OH 43209

Joseph Stefanov

City Manager

If to Adviser:

RedTree Investment Group
4016 Allston St., Suite 4
Cincinnati, Ohio 45209
Attention: Ryan Nelson
Telephone: (513) 758-8494
Facsimile: (513) 758-8479
E-mail: ryan@redtreeinv.com

15. Representations. By executing and delivering this Agreement, the Client represents that this Agreement is valid and has been duly authorized by appropriate corporate or similar action, does not violate any obligation by which the Client is bound, and when so executed and delivered, will be binding upon Client in accordance with its terms (and the Client agrees to provide Adviser with evidence of such authority as may be reasonably requested by Adviser). The Client further represents that it has determined (on its own or based on consultations with its legal, tax, or other advisors) that having Adviser manage the Account is consistent with the Client's investment objectives and that the Client has had access to any and all information concerning Adviser which it has requested or considers necessary to make a proper evaluation of entering into this Agreement. The Client specifically acknowledges that it has received Adviser's disclosure statement, as required by Rule 204-3 under the Advisers Act (Adviser's Form ADV Part 2A, or its brochure, herein defined as the "Brochure").

16. Miscellaneous.

The date of this Agreement shall be the later of the date of acceptance by Adviser or the receipt by Adviser of the monies and or the securities for investment.

As used herein, reference to persons in the masculine gender shall include persons of the feminine gender. References in the singular shall, as and if appropriate, include the plural.

All paragraph headings in this Agreement are for convenience of reference only, do not form part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.

This Agreement shall be governed by the laws of the State of Ohio, except to the extent superseded by the Advisers Act.

City of New Albany

**Kindred Spirits Investment Management,
LLC. d/b/a RedTree Investment Group**

(Signature)

(Signature)

Name: Joseph Stefanov

Name: Jennifer C. Trowbridge, CFA

Title: City Manager

Title: Co-Founder/Portfolio Manager

Date: _____

Date: _____

Addendum A

Investment Guidelines

Attached



Policy 4.20 – Investments & Deposits of Funds Policy

Purpose of Policy:

The City of New Albany strongly desires to maintain, safeguard, and prudently grow the assets of the City. These would include, but are not limited to: financial assets, equipment and machinery, land, infrastructure, and/or intellectual property (i.e., non-physical assets). In order to prevent loss and properly account for the City's assets, the following policy has been developed.

A. General Policies & Procedures:

1. Investment Policy

All idle funds shall be invested in accordance with the Statement of Investment Policy approved by City Council. This policy emphasizes safety, preservation of principal, liquidity, and yield.

2. Interest Distribution

Interest shall be distributed to the following funds in proportion to their cash balance as a percentage of the total cash balances of all funds:

- (1) Street Construction, Maintenance & Repair Fund;
- (2) State Highway Fund;
- (3) Permissive Tax Fund;
- (4) Capital Equipment Replacement Fund;
- (5) Capital Improvement Fund;
- (6) Park Improvement Fund;
- (7) Bond Improvement Fund;
- (8) Infrastructure Replacement Fund; and
- (9) Water & Sanitary Sewer Improvement Fund.

All other interest will be distributed to the General Fund except as otherwise required by statute or as required by state or federal grants.

3. Deposit of Funds

All cash and securities should be deposited within 24 hours of receipt wherever possible.

4. Depository Bank

The City shall review its designation of public depositories eligible to receive deposits of the City's funds at least once every five years. Depositories so designated shall appear on a list of eligible depositories authorized by the State of Ohio.

B. Investment Policy (per City Codified Ordinances):

157.01 SCOPE.

The Council hereby directs that the investing authority of this public entity shall reside with the Director of Finance in accordance with this Investment Policy. This Policy is designed to cover all moneys under the control of the Director of Finance and those that comprise the core investment portfolio.

This policy applies to the investment of all interim deposits and does not apply to the investment of employees' retirement funds. Except for cash in certain restricted and special funds, the City of New Albany will consolidate cash and reserve balances from all funds to

maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. In the event that a specific policy item is not addressed herein, the City shall rely upon relevant policies contained within Ohio Revised Code Section 135.

157.02 GENERAL OBJECTIVES

The primary objectives, in priority order, of investment activities shall be safety, liquidity and yield:

- (a) **Safety:** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.
 - 1. *Credit Risk* – The City of New Albany will seek to minimize credit risk associated with specific securities by:
 - i. Limiting investments to the types of securities permitted by Section 157.06 of this Investment Policy.
 - ii. Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with which the City will do business in accordance with Section 157.04 of this Investment Policy.
 - iii. Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer may be minimized.
 - 2. *Interest Rate Risk* – The City will seek to minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:
 - i. Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
 - ii. Investing operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools and limiting the average maturity of the portfolio in accordance with this policy.
- (b) **Liquidity:** The investment portfolios shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished

by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with an active secondary, or resale market. Alternatively, a portion of the portfolio may be placed in money market mutual funds not subject to floating rate N.A.V. ("Prime" per Dodd-Frank Act) or local government investment pools which offer same-day liquidity for short-term funds.

- (c) **Yield**: The investment portfolio shall be designed with the objectives of attaining a market rate of return throughout budgetary and economic cycles. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a market return relative to the risk being assumed. Securities shall generally be held until maturity with the following exceptions:
- i. A security with declining credit may be sold early to minimize loss of principal.
 - ii. A security may be sold in order to realize a capital gain.
 - iii. A security sale at either a gain or loss followed by the purchase of a separate security that could be expected to improve the quality, yield or target duration in the portfolio. For purposes of this section, "redeemed" shall also mean "called" in the case of a callable security.
 - iv. Liquidity needs of the portfolio require that the security be sold.

157.03 STANDARDS OF CARE

- (a) **Prudence** - The standard of prudence to be used by the investment officials in managing the City's investment portfolio shall be the 'prudent person' standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy, and exercising due diligence shall be relieved of personal financial responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and sale of securities are carried out in accordance with the terms of this policy.

The 'prudent person' standard states that, "Investments shall be made using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds considering the probable income as well as the probable safety of their capital."

- (b) **Ethics and Conflicts of Interest** - Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual and firm with whom business is conducted on behalf of the City of New Albany.
- (c) **Delegation of Authority**: Authority to manage the investment program is granted to the Director of Finance, hereinafter referred to as Investment Officer, and derived from ORC §153.14. Responsibility for the operation of the investment program is hereby delegated to the Investment Officer, who shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. The Investment Officer may, subject to the approval of Council, engage the services of an independent, SEC Registered Investment Advisor (the "Investment Advisor") whose firm may be authorized to execute trades with approved brokers as defined in Section 157.04. The Investment Advisor is responsible for reporting trades and pricing to the Investment Officer. The Investment Advisor will not act as a trustee or as a Custodian.

157.04 AUTHORIZED FINANCIAL INSTITUTIONS, DEPOSITORIES AND BROKER/DEALERS.

- (a) **Authorized Financial Institutions, Depositories and Broker/Dealers**: A list of authorized institutions and dealers shall be maintained by the Investment Officer. All investments, except for investments in securities described in divisions (B)(5) and (6) of Ohio Revised Code Section 135.14 and for investments by a municipal corporation in the issues of such municipal corporation, shall be made only through a member of FINRA, through a bank, savings bank, or savings and loan association regulated by the Superintendent of Financial Institutions, or through an institution regulated by the Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

- (b) **Repurchase Agreements:** Repurchase agreements shall be transacted only through banks located within the State of Ohio with which the Investment Officer has signed a Master Repurchase Agreement as required in Chapter 135 of the Ohio Revised Code.
- (c) **Certificates of Deposit:** Certificates of Deposit shall be issued by commercial banks or savings and loans with FDIC coverage. Any Certificates of Deposit purchased by the City shall not exceed FDIC insurance ceilings.

157.05 SAFEKEEPING AND CUSTODY.

- (a) **Delivery versus Payment:** All trades of marketable securities will be executed by delivery versus payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds.
- (b) **Safekeeping:** The Investment Officer shall be responsible for the safekeeping of investment assets. Securities purchased for the Municipality will be held in safekeeping by a qualified trustee (hereinafter referred to as the "Custodian"), as provided in Ohio R.C. 135.37. Securities held in safekeeping by the Custodian shall be evidenced by a monthly statement describing such securities. The Custodian may safekeep securities in Federal Reserve Bank book entry form, Depository Trust Company book entry form in the account of the Custodian or the Custodian's correspondent bank, or non-book entry (physical) securities held by the Custodian or the Custodian's correspondent bank. The Custodian shall annually provide a copy of their most recent report on internal controls (SSAE 16 SCO reports, or equivalent).
- (c) **Internal Controls:** The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft or misuse. Details of the internal controls system shall be documented in an investment procedures manual and shall be reviewed and updated annually. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived, and (2) the valuation of costs and benefits requires estimates and judgment of management.

The internal controls structure shall address the following points:

- i. Control of collusion
- ii. Separation of transaction authority from accounting and recordkeeping.
- iii. Custodial safekeeping
- iv. Avoidance of physical delivery of securities
- v. Clear delegation of authority to subordinate staff members

- vi. Written confirmation of transactions for investments and wire transfers

157.06 PERMITTED INVESTMENTS.

The Investment Officer may invest in any instrument or security authorized in Chapter 135 of the Ohio Revised Code, as amended. A copy of the appropriate ORC section will be kept with this policy.

157.07 DERIVATIVES.

Investments in derivatives are strictly prohibited.

157.08 COLLATERAL.

All investments and deposits shall be collateralized pursuant to Chapter 135 of the Ohio Revised Code.

157.09 REPORTING.

- (a) **Inventory:** The Investment Officer shall maintain an inventory of all obligations and securities acquired by the Investment Officer. The inventory shall include the following:
 - i. description of the security,
 - ii. type,
 - iii. security cost,
 - iv. par, or face value, of the security,
 - v. maturity date,
 - vi. settlement date, and
 - vii. coupon rate
- (b) **Reporting:** The Investment Officer shall maintain a monthly portfolio report and issue a portfolio report at least quarterly which details the following:
 - i. all transactions during the period,
 - ii. income received and expenses paid;
 - iii. security purchases and sales;
 - iv. purchase yield of each security, and
 - v. the effective yield and effective maturity of the portfolio.

- (c) **Authority:** The portfolio report shall state the names of any persons or entity effecting transactions on behalf of the investing authority.

157.10 COMMITTEE MEETINGS.

The Council or a designated Investment Advisory Committee will endeavor to meet on a quarterly basis; however, said committee shall meet no less than twice per annum to review the portfolio in terms of security, type, risk and investment return. The Investment Officer shall be responsible for maintaining records of all investments and deposits and preparing reports that summarize recent market conditions, economic conditions, economic developments and anticipated investments for the Council.

157.11 ACKNOWLEDGMENT.

Pursuant to Chapter 135 of the Ohio Revised Code, all entities conducting business and all brokers, dealers, and financial institutions initiating transactions with the Municipality by giving advice or making investment policy, or executing transactions initiated by the Municipality, must acknowledge their agreement to abide by this investment policy's content.

BROKER/AGENT ACKNOWLEDGEMENT OF RECEIPT

By signing below, the institution submits that it has read and acknowledges the investment policies, and agrees to abide by its content.

Name of Institution

Authorized Officer

4/5/19

Date

City of New Albany:

Director of Finance

Date

Addendum B

City of New Albany

Fees shall be assessed against the Account in arrears following the end of each calendar quarter based on the value of the assets in the Account on the last business day of the applicable quarter. If assets are added to or withdrawn from the Account during the quarter, an appropriate adjustment will be made to the fee charged for that quarter. All quarterly fees and charges are automatically assessed against the Client's Account unless the Client elects direct billing. If Client elects direct billing for services hereunder, Client shall pay the quarterly fees and charges within fifteen (15) days after receipt of the bill. If this Agreement shall be in effect for only a portion of a quarter, the fee shall be pro-rated for such portion based on the number of days the Agreement was in effect to the number of days in the quarter.

The following annual fees will be charged to the **City of New Albany** account:

\$3.00 per \$1000 on the first \$1 million (30 basis points)

\$0.75 per \$1000 on the balance (7.5 basis points)



Prepared: 04/05/2019
Introduced: 04/16/2019
Revised:
Adopted: 04/16/2019
Effective: 04/16/2019

RESOLUTION R-23-2019

A RESOLUTION TO ACCEPT A 1.481 ACRE AND 0.103 ACRE TRACT OF LAND FROM MBJ HOLDINGS LLC FOR THE PURPOSE OF PUBLIC RIGHT OF WAY

WHEREAS, the tracts of land are generally located along the west side of Harrison Road, south of Worthington Road and North of Morse Road; and

WHEREAS, the land parcels currently extend to the centerline of the road and Harrison Road has historically been served by way of a highway easement. The property owner requests to dedicate the highway easement area to the city as public right-of-way; and

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

WHEREAS, the city will benefit from this dedication of 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 1.481 acre and 0.103 acre donation of land from MBJ Holdings LLC for the purpose 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 resolution 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 resolution shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this 16th day of April, 2019.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchefsky
Law Director

Exhibit A - R-23-2019

1.481 ACRES

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 24, Township 2, Range 15, United States Military District, and being part of that 99.440 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201904010005878 and part of that 50.000 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201904010005880, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

BEGINNING, at a railroad spike found in the northerly line of Section 24, in the southerly line of Section 17, in the centerline of Harrison Road of record in Road Record 2, Page 135, at a northeasterly corner of said 99.440 acre tract, at the southeasterly corner of that 0.8808 acre tract conveyed to Athena M. Voda by deed of record in Instrument Number 201808130016692, at the northwesterly corner of that 14 1/2 acre tract conveyed as Parcel Two, Tract One to Paul Herb and Suzanne Herb by deed of record in Instrument Number 201007260014251, at the southwesterly corner of that 4.862 acre tract conveyed to Vicki Reed by deed of record in Instrument Number 200504140010935;

Thence South 03° 39' 35" West, with the centerline of said Harrison Road, with the easterly line of said 99.440 and 50.000 acre tracts, with the westerly line of said Parcel Two, Tract One, with the westerly line of that 14 1/2 acre tract conveyed as Parcel Two, Tract Two to Paul Herb and Suzanne Herb by deed of record in Instrument Number 201007260014251, with the westerly line of that 54.421 acre tract conveyed to Ralph O. Corwin and Mary Jane Corwin, Trustees of the Corwin Family Trust Dated 29th of August, 2006 by deed of record in Instrument Number 200608310025526, (passing a railroad spike found at 1345.96 feet) a total distance of 2151.03 feet to a railroad spike found at the southeasterly corner of said 50.000 acre tract, at the northeasterly corner of that 5.097 acre tract conveyed to Jersey Baptist Church by deed of record in Instrument Number 200509270030373;

Thence North 85° 56' 05" West, with the line common to said 50.000 acre and 5.097 acre tracts, a distance of 30.00 feet to a 3/4 inch iron pin found in the westerly right-of-way line of said Harrison Road;

Thence North 03° 39' 35" East, with the westerly right-of-way line of said Harrison Road, across said 50.000 acre and said 99.440 acre tracts, (passing a 3/4 inch iron pin capped "EMHT" found at 805.06 feet) a total distance of 2151.02 feet to 3/4 inch iron pin found in the common Section Line of said Sections 17 and 24, in a northerly line of said 99.440 acre tract, in the southerly line of said 0.8808 acre tract;

Thence South 85° 56' 50" East, with the common Section Line of said Sections 17 and 24, with the line common to said 99.440 acre and 0.8808 acre tracts, a distance of 30.00 feet to the POINT OF BEGINNING, containing 1.481 acres, more or less, of which 1.481 acre lies within the existing road right-of-way occupied. Of the total 1.481 acres, 0.927 acres lies within Parcel Number 094-106782-00.000, and 0.554 acres lies within Parcel Number 094-106818-00.000.

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 per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, having a bearing of North 85° 57' 24" West, as established by the Franklin County Engineering Department using Global Positioning System procedures and equipment.

This description is based on an actual field survey performed by or under the direct supervision of Joshua M. Meyer, Registered Surveyor Number 8485 in July of 2018.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Joshua M. Meyer
Professional Surveyor No. 8485

Date



Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
5500 New Albany Road, Columbus, OH 43054
Phone: 614.775.4500 Toll Free: 888.775.3448
emht.com

SURVEY OF ACREAGE PARCEL

SECTIONS 17 AND 24, TOWNSHIP 2, RANGE 15
UNITED STATES MILITARY DISTRICT
CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: April 2, 2019

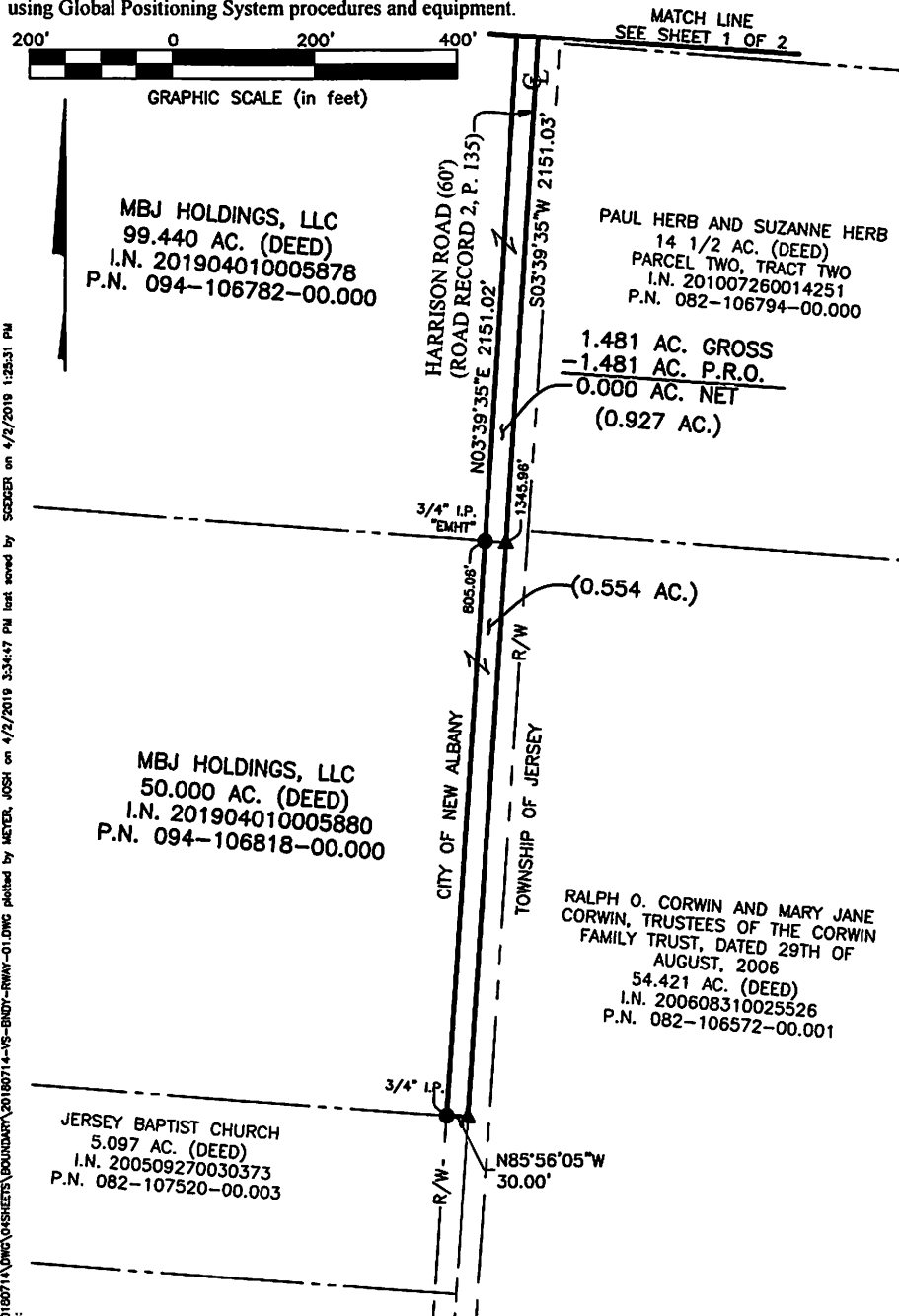
Job No: 2018-0714

Scale: 1" = 200'

BASIS OF BEARINGS:

The bearings shown hereon are based on the Ohio State Plane Coordinate System, South Zone per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, having a bearing of North 85° 57' 24" West, as established by the Franklin County Engineering Department using Global Positioning System procedures and equipment.

SHEET 2 OF 2



U:\20180714\DWG\04SHEETS\BOUNDARY\20180714-VS-BNDY-RWAY-01.DWG plotted by MEYER, JOSH on 4/2/2019 3:34:47 PM last saved by SCDERER on 4/2/2019 1:25:31 PM

0.103 ACRE

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 17, Township 2, Range 15, United States Military District, and being part of that 175.548 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201904010005880, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, at a railroad spike found in the northerly line of Section 24, in the southerly line of Section 17, in the centerline of Harrison Road of record in Road Record 2, Page 135, at a northeasterly corner of that 99.440 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201904010005878, at the southeasterly corner of that 0.8808 acre tract conveyed to Athena M. Voda by deed of record in Instrument Number 201808130016692, at the northwesterly corner of that 14 1/2 acre tract conveyed as Parcel Two, Tract One to Paul Herb and Suzanne Herb by deed of record in Instrument Number 201007260014251, at the southwest corner of that 4.862 acre tract conveyed to Vicki Reed by deed of record in Instrument Number 200504140010935:

Thence North 03° 37' 39" East, with the centerline of said Harrison Road, with the easterly line of said 0.8808 acre tract, with the easterly line of that 0.931 acre tract conveyed to James E. Winn, Trustee of the James E. Winn Trust Agreement by deed of record in Instrument Number 200505030013126, with the westerly line of said 4.862 acre tract, with the westerly line of that 2.000 acre tract conveyed as Tract Two to Michael H. Elkins by deed of record in Instrument Number 200907170015904, a distance of 288.40 feet to a magnetic nail set at a southeasterly corner of said 175.548 acre tract, at the northeasterly corner of said 0.931 acre tract, the TRUE POINT OF BEGINNING;

Thence North 86° 04' 14" West, with the line common to said 175.548 acre and 0.931 acre tracts, a distance of 30.00 feet to an iron pin set in the westerly right-of-way line of said Harrison Road;

Thence North 03° 37' 39" East, with the westerly right-of-way line of said Harrison Road, across said 175.548 acre tract, a distance of 150.00 feet to an iron pin set in a northerly line of said 175.548 acre tract, in a southerly line of that 49.533 acre tract conveyed to Robert A. Carr and Deborah B. Carr by deed of record in Instrument Number 201809270020360;

Thence South 86° 04' 14" East, with the line common to said 175.548 acre and 49.533 acre tracts, a distance of 30.00 feet to a magnetic nail set in the centerline of said Harrison Road, at a northeasterly corner of said 175.548 acre tract, at a southeasterly corner of said 49.533 acre tract, in the westerly line of said 2.000 acre tract;

Thence South 03° 37' 39" West, with the centerline of said Harrison Road, with the line common to said 175.548 acre and 2.000 acre tracts, a distance of 150.00 feet to the TRUE POINT OF BEGINNING, containing 0.103 acre, more or less, of which 0.103 acre lies within the existing road right-of-way occupied.

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 per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, having a bearing of North 85° 57' 24" West, as established by the Franklin County Engineering Department using Global Positioning System procedures and equipment.

This description is based on an actual field survey performed by or under the direct supervision of Joshua M. Meyer, Registered Surveyor Number 8485 in July of 2018.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Joshua M. Meyer
Professional Surveyor No. 8485

Date



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SURVEY OF ACREAGE PARCEL

SECTIONS 17 AND 24, TOWNSHIP 2, RANGE 15

UNITED STATES MILITARY DISTRICT

CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: April 2, 2019

Job No: 2018-0714

Scale: 1" = 200'

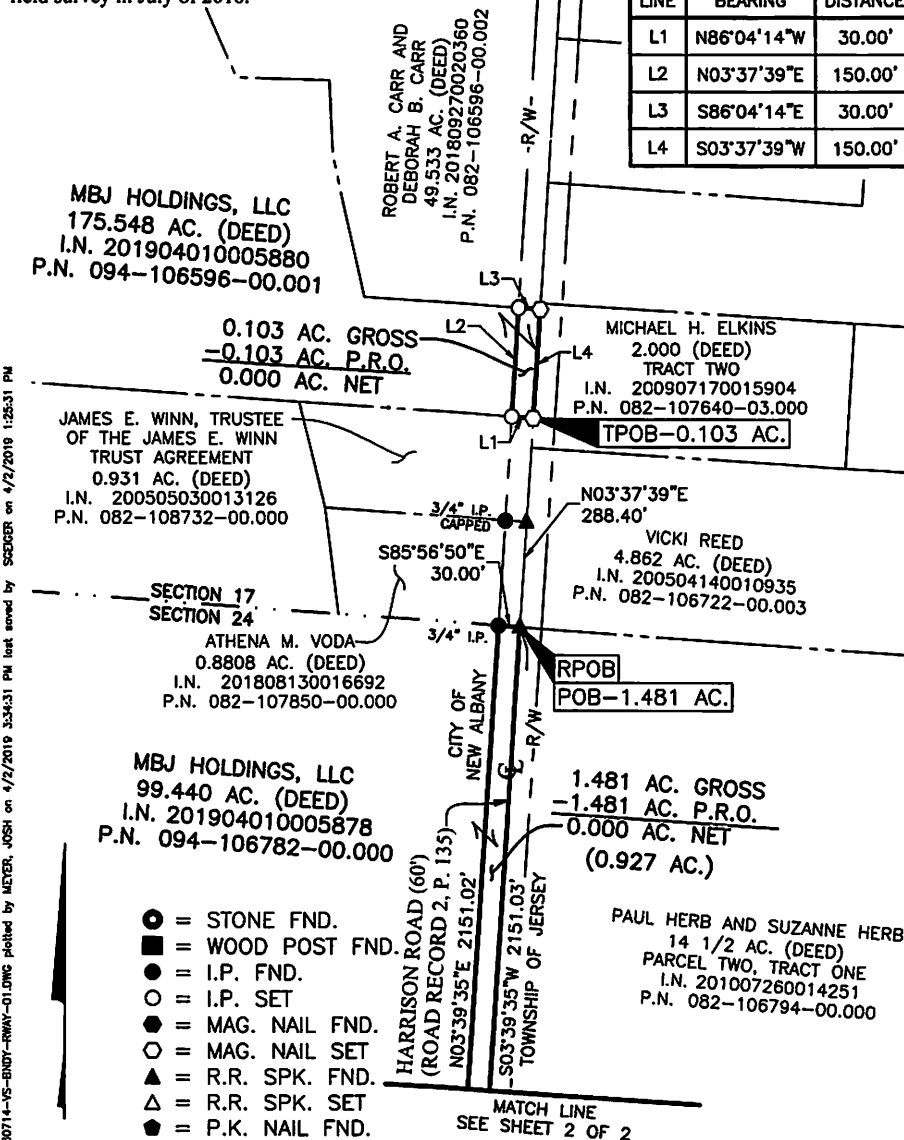
SURVEY NOTE:

This survey was prepared using documents of record, prior plats of survey, and observed evidence located by an actual field survey in July of 2018.

SHEET 1 OF 2

LINE TABLE

LINE	BEARING	DISTANCE
L1	N86°04'14"W	30.00'
L2	N03°37'39"E	150.00'
L3	S86°04'14"E	30.00'
L4	S03°37'39"W	150.00'



- = STONE FND.
- = WOOD POST FND.
- = I.P. FND.
- = I.P. SET
- = MAG. NAIL FND.
- = MAG. NAIL SET
- ▲ = R.R. SPK. FND.
- △ = R.R. SPK. SET
- = P.K. NAIL FND.

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



DRAFT

By

Joshua M. Meyer
Professional Surveyor No. 8485

Date

L:\20180714\DWG\04SHEETS\BOUNDARY\20180714-VS-BNDY-RWAY-01.DWG Plotted by MEYER, JOSH on 4/2/2019 3:34:31 PM last saved by SDEGER on 4/2/2019 1:25:31 PM



Prepared: 04/05/2019
Introduced: 04/16/2019
Revised:
Adopted: 04/16/2019
Effective: 04/16/2019

RESOLUTION R-25-2019

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH STRAWSER CONSTRUCTION, INC. FOR THE PURCHASE AND INSTALLATION OF BITUMINOUS PRODUCTS FOR VARIOUS CITY ROADS AS SET FORTH IN THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM INVITATION NUMBER 101G-20 AT A PRICE NOT TO EXCEED \$200,000

WHEREAS, the City of New Albany desires to perform general pavement maintenance in order to keep its roadway infrastructure in good condition, and

WHEREAS, utilizing the State of Ohio Cooperative Purchasing Program provides a greater benefit over material pricing and installation than municipal competitive bidding, and

WHEREAS, funding for general road maintenance was provided for in the Annual Appropriations Ordinance (Ord. O-25-2018).

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

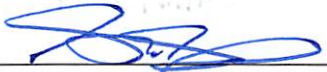
Section 1: That the City Council of New Albany hereby authorizes the city manager to enter into an agreement with Strawser Construction, Inc. for the purchase and installation of bituminous products for various city roads as set forth in the State of Ohio Cooperative Purchasing Program Number 101G-20.

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: This resolution is passed and shall take effect and be in force at the earliest period allowed by law.

CERTIFIED AS ADOPTED this 16th day of April, 2019.

Attest:



Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchevsky
Law Director



Prepared: 04/05/2019
Introduced: 04/16/2019
Revised:
Adopted: 04/16/2019
Effective: 04/16/2019

RESOLUTION R-24-2019

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ADVERTISE, AWARD BIDS AND EXECUTE A CONTRACT FOR THE 2019 CITY OF NEW ALBANY STREET IMPROVEMENT PROJECT

WHEREAS, Council of the City of New Albany, Ohio desires to proceed with general road maintenance such as asphalt overlay, crack seal and curb replacement as needed within the city, and

WHEREAS, funding for general road maintenance was provided for in the Annual Appropriations Ordinance (Ord. O-25-2018), and

WHEREAS, the city will advertise for and award bids in accordance with the Codified Ordinances of New Albany and the Ohio Revised Code, for these improvements, and

WHEREAS, the city manager will review the proposals to certify they are in order.

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


Section 1: The city manager is hereby authorized to proceed with advertisement, acceptance and the execution of a contract for the 2019 City of New Albany Street Improvement project.

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 16th day of April, 2019.

Attest:



Sloan T. Spalding
Mayor



Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchefsky
Law Director



Prepared: 04/05/2019
Introduced: 04/16/2019
Revised:
Adopted: 04/16/2019
Effective: 04/16/2019

RESOLUTION R-26-2019

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PAVEMENT TECHNOLOGY, INC. FOR THE PURCHASE AND INSTALLATION OF LIQUID ASPHALT PRODUCTS FOR VARIOUS CITY ROADS AS SET FORTH IN THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM INVITATION NUMBER 101L-20 AT A PRICE NOT TO EXCEED \$140,000

WHEREAS, the City of New Albany desires to perform general pavement maintenance in order to keep its roadway infrastructure in good condition, and

WHEREAS, utilizing the State of Ohio Cooperative Purchasing Program provides a greater benefit over material pricing and installation than municipal competitive bidding, and

WHEREAS, funding for general road maintenance was provided for in the Annual Appropriations Ordinance (Ord. O-25-2018).


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

Section 1: That the City Council of New Albany hereby authorizes the city manager to enter into an agreement with Pavement Technology, Inc. for the purchase and installation of bituminous products for various city roads as set forth in the State of Ohio Cooperative Purchasing Program Number 101L-20.

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: This resolution is passed and shall take effect and be in force at the earliest period allowed by law.

CERTIFIED AS ADOPTED this 16th day of April, 2019.



Sloan T. Spalding
Mayor

Attest:



Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchefsky
Law Director