



Prepared: 09/23/2016
Introduced: 10/04/2016
Revised: 10/20/2016
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 STREETScape AND PUBLIC 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 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 streetscape improvements bordering the Property and the Project and regional 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

EXHIBIT A to O-34-2016

**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 list of the Additional Public Improvements 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 reseeded as necessary.
- Streetscape improvements on Market Street and Main Street as requested by the City that are in addition to the typical sidewalk and street tree requirements for residential development. These improvements may include additional concrete walks, brick planting area edges, enhanced soils for planting areas, bed edging material, trees, ground cover and mulch in planters.
- 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.
- Community Park seating area including brick walks and edges, benches, plant material/ground cover, enhanced soils for planting areas, bed edging material, trees, shrubs, groundcover and mulch.
- Storm water and water quality infrastructure that will allow for more dense development consistent with City overall Village Center Master Plan and City Regional Stormwater Plan.



Prepared: 09/28/2016
Revised: 10/15/2016
Introduced: 10/18/2016
Adopted:
Effective:

ORDINANCE O-35-2016

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$6,350,000 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 \$6,350,000 (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 or 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 \$6,350,000 (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 unmatured 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

PROPOSED



Prepared: 10/10/2016
Introduced: 10/18/2016
Revised: 10/21/2016
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.

WHEREAS, it is necessary to perform budget transfers within the General Fund that do not increase appropriations, but do require Council approval; 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. City Council hereby authorizes an increase in appropriations to the Bond Improvement Fund (403) as follows:

403.170.417200	Bond Proceeds	\$	6,170,000
403.706.523604	Cost of Issuance	\$	48,027
403.706.526104	Bond Issue	\$	6,121,973

Section 2. City Council hereby authorizes the following budgetary transfers:

101.706.523000	Contractual Services	\$	(1,909.00)
101.401.522000	Travel & Meetings	\$	459.00
101.401.522004	Meetings – Boards & Commissions	\$	1,200.00
101.402.522000	Travel & Meetings	\$	250.00

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 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 ec 20160001-VS-BNDY-02.doc

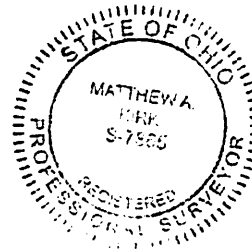
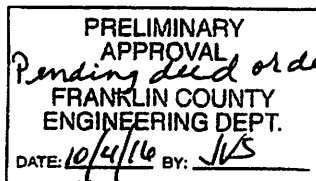
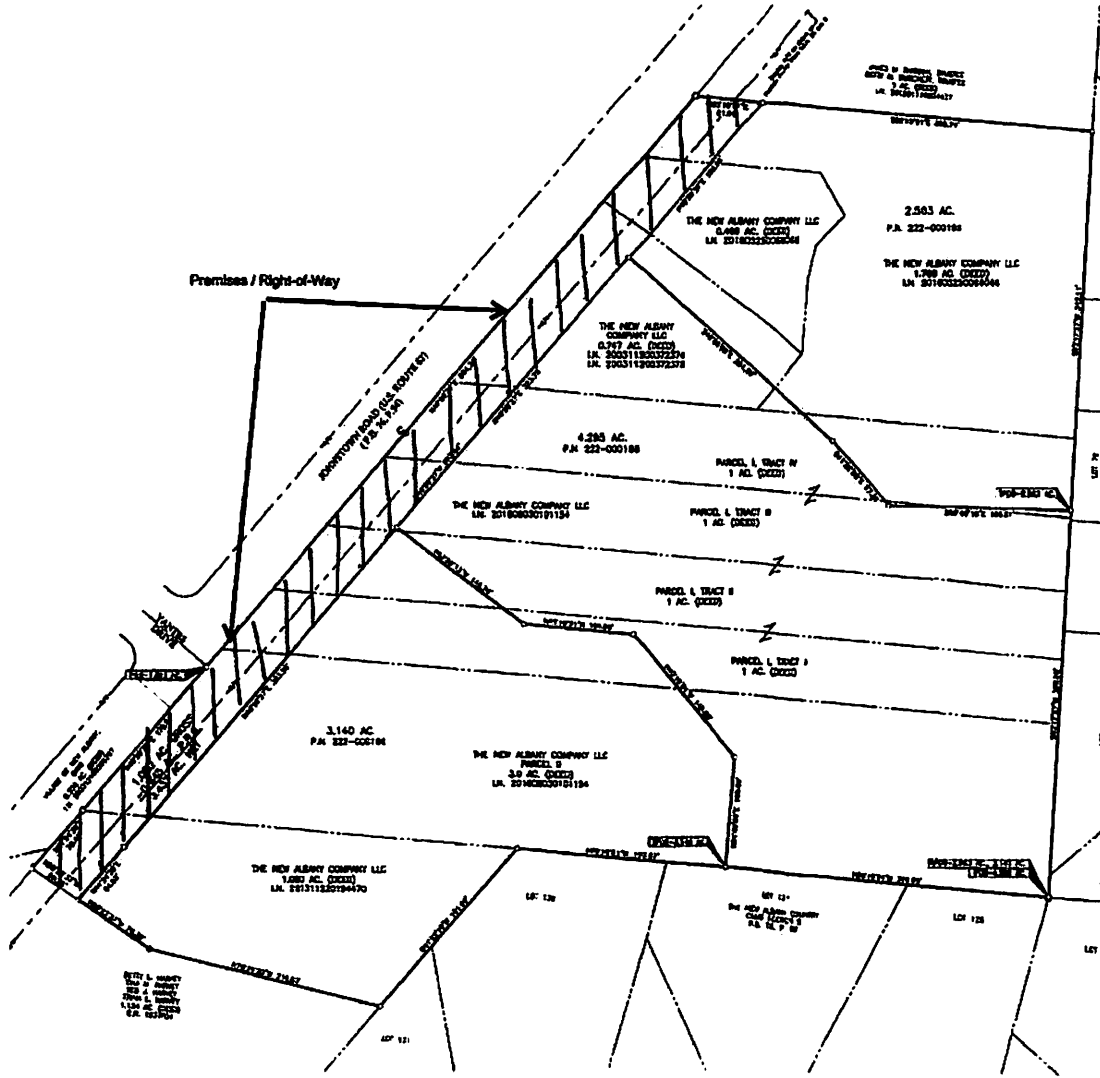


EXHIBIT B





Prepared: 10/20/2016
Introduced: 11/01/2016
Revised:
Adopted:
Effective:

ORDINANCE O-39-2016

AN ORDINANCE TO REPEAL AND UPDATE EXISTING CHAPTER 1155 OF THE NEW ALBANY CODIFIED ORDINANCES ENTITLED "FLOOD DAMAGE REDUCTION" IN ORDER TO ENABLE NEW ALBANY RESIDENTS TO PURCHASE FLOOD INSURANCE THROUGH THE NATIONAL FEDERAL FLOOD INSURANCE PROGRAM (NFIP)

WHEREAS, the federal government subsidizes flood insurance through the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP), which can usually be obtained at rates lower than traditional commercial flood insurance; and

WHEREAS, in order to participate in the NFIP, several requirements must be met, including completion of an application, adopting a resolution of intent, and enacting legislation approved on FEMA's behalf by the Ohio Department of Natural Resources (ODNR).

WHEREAS, the city has been looking into this process for some time and has had concerns about the cost of mapping flood-prone areas as well as the ability to maintain existing standards relative to development in flood-prone areas; and

WHEREAS the city has now been advised that our existing mapping, and/or that of Franklin County, is sufficient to move forward; and

WHEREAS, the administration has determined that, in addition to making NFIP coverage available to our residents, the enactment of this updated ordinance will serve to maintain or enhance city standards regarding development in flood-prone areas; and

WHEREAS, in March of 2015, council adopted Resolution R-14-2015, entitled "A Resolution Concerning Flood Prone Areas & Intent to Participate in the National flood Insurance Program"; and

WHEREAS, the law director has obtained initial approval from ODNR of this update to Chapter 1155 of the Code, attached hereto and fully incorporated herein as Exhibit A; and

WHEREAS, city staff and the city's consultants have extensively reviewed this legislation to ensure that it would not only comply with NFIP requirements, but would also maintain and enhance city standards regarding development in flood-prone areas.

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

Section 1. Chapter 1155 of the New Albany Codified Ordinances entitled "Flood Damage Prevention" is hereby repealed and replaced with the updated version of Chapter 1155 attached hereto and fully incorporated herein as Exhibit A.

Section 2. The law director and city manager are hereby authorized to make minor modification to this legislation as requested by ODNR, which are not adverse to the city's interests.

Section 3. Pursuant to Article VI of the Charter of the City of New Albany, this ordinance shall take effect and be in force at the earliest period provided 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

EXHIBIT A

CHAPTER 1155 – FLOOD DAMAGE REDUCTION

SECTION 1.0: GENERAL PROVISIONS

Constitutional and Statutory Authority

The City of New Albany is a home rule charter municipality with the authority which has all powers possible for a municipality to have under the Constitution and laws of the State of Ohio (New Albany Charter Section 2.01). This authority includes the authority to hear appeals and variances in accordance with Chapter 1113 of the New Albany Codified Ordinances.

1.1 Findings of Fact

The City of New Albany has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

1.2 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. Prohibit developing flood plains for residential or industrial commercial uses;
- G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- H. Minimize the impact of development on adjacent properties within and near flood prone areas;
- I. Ensure that the flood storage and conveyance functions of the floodplain are maintained;

- J. Minimize the impact of development on the natural, beneficial values of the floodplain;
- K. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- L. Meet community participation requirements of the National Flood Insurance Program.
- M. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;

1.3 Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- E. Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

1.4 Lands to Which These Regulations Apply

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of New Albany (New Albany or City) as identified in Section 1.5, including any additional areas of special flood hazard annexed by the City.

1.5 Basis for Establishing the Areas of Special Flood Hazard

For the purposes of these regulations, the following studies and / or maps are adopted:

- A. Flood Insurance Rate Map, Franklin County, Ohio and Incorporated Areas effective June 17, 2008
Flood Insurance Study, Franklin County, Ohio and Incorporated Areas effective June 17, 2008

- B. Other studies and / or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard as required by the New Albany City Engineer. (see also Section 3.11, herein)

- C. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the New Albany City Engineer.

Any revisions to the aforementioned maps and / or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the New Albany Village Hall, 99 West Main Street, New Albany Ohio 43054.

1.6 Abrogation and Greater Restrictions

These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by these regulations.

1.7 Interpretation

In the interpretation and application of these regulations, all provisions shall be:

- A. Considered as minimum requirements;
 - B. Liberally construed in favor of the governing body; and,
 - C. Deemed neither to limit nor repeal any other powers granted under state statutes.
- Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

1.8 Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City, any officer, employee or consultant thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

1.9 Severability

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 2.0: DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Appeal

A request for review of the floodplain administrator's interpretation of any provision of these regulations.

Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.

Base (100-Year) Flood Elevation (BFE)

The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL).

Basement

Any area of the building having its floor subgrade (below ground level) on all sides including walk out basements.

Development

Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Drainage Easement

An easement reserved for the purpose of constructing, operating and maintaining major storm water drainage swales and/or other above ground storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas. Drainage easements are further defined as being coincident with 100-year flood plains established by FEMA or other studies accepted by the City Engineer.

Compensatory Storage

To minimize problems associated with flooding, erosion and environmental impacts, fill, where permitted, within the delineated 100-year floodplain outside of the Stream Corridor Protection Zone must be compensated for by removing a column of material of 105% or greater than the fill placed within the delineated 100-year floodplain. The amount of compensatory storage shall be determined by the volume of material removed above the ordinary high-water mark of the stream and below the 100-year flood elevation established for the area. The compensation area must have an unrestricted hydraulic connection to the affected stream and provide the same rate of flood storage capture and discharge over the course of the flood event as in pre-project conditions. First consideration shall be given to expanding the stream's existing floodplain next to the existing channel and within the limits of the development site.

Enclosure Below the Lowest Floor

See "Lowest Floor."

Executive Order 11988 (Floodplain Management)

Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

Federal Emergency Management Agency (FEMA)

The agency with the overall responsibility for administering the National Flood Insurance Program.

Fill

A deposit of material placed by artificial means.

Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters, and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM)

Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

Flood Insurance Rate Map (FIRM)

An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

Flood Insurance Risk Zones

Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

Zone A:

Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

Zones A1-30 and Zone AE:

Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.

Zone AO:

Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

Zone AH:

Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

Zone A99:

Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

Zone B and Zone X (shaded):

Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone C and Zone X (unshaded):

Areas determined to be outside the 500-year floodplain.

Flood Insurance Study (FIS)

The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

Flood Protection Elevation

The Flood Protection Elevation, or FPE, is the base flood elevation plus 2 feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

Floodway

A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

Freeboard

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Historic Structure

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
3. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
4. Individually listed on the inventory of historic places maintained by the City, which program is certified by the Ohio Historic Preservation Office.

Hydrologic and hydraulic engineering analysis

An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

Letter of Map Change (LOMC)

A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Lowest floor

The lowest floor of the lowest enclosed area (including basement and window wells) of a structure. This definition excludes an “enclosure below the lowest floor” which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

Manufactured home park

As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

National Flood Insurance Program (NFIP) The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

New Construction

Structures for which the "start of construction" commenced on or after the initial effective date of the current edition City of New Albany’s Flood Insurance Rate Map, dated _____, and includes any subsequent improvements to such structures.

Person

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

Recreational vehicle

A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Registered Professional Architect

A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Revised Code.

Registered Professional Engineer

A person registered as a professional engineer under Chapter 4733 of the Revised Code.

Registered Professional Surveyor

A person registered as a professional surveyor under Chapter 4733 of the Revised Code.

Riparian Area

A transitional area between flowing water and land covered by terrestrial vegetation that provides a continuous exchange of nutrients and woody debris between land and water. This area is at least periodically influenced by flooding. Riparian areas, if appropriately sized and managed, help to stabilize banks, limit erosion, reduce flood size flows and/or filter and settle out runoff pollutants, or perform other functions consistent with the purposes of these regulations.

Special Flood Hazard Area

Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, flood prone soils associated with a watercourse, and flood plains established by studies accepted by the City Engineer.

Start of construction

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home

on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

Stream

A channel having a well-defined bed and bank, either natural or artificial which confines and conducts continuous or periodic flowing water. Includes intermittent, ephemeral and perennial streams identified by USGS maps.

Stream Corridor Protection Zone (SCPZ)

The area set back along a stream to protect the riparian area and stream from impacts of development, and stream side residents from impacts of flooding and land loss through erosion. SCPZ widths shall be established per City policy.

Structure

A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

1. Any improvement to a structure that is considered "new construction,"
2. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
3. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

Variance

A grant of relief from the standards of these regulations consistent with the variance conditions herein.

Violation

The failure of a structure or other development to be fully compliant with these regulations.

SECTION 3.0: ADMINISTRATION

3.1 Designation of the Floodplain Administrator

The City Manager or designee is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

3.2 Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- A. Evaluate applications for permits to develop in special flood hazard areas.
- B. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- C. Review zoning/development permits to ensure that no new residential, industrial and/or commercial development occurs in special flood hazard areas.
- D. Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- E. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
- F. Enforce the provisions of these regulations.
- G. Provide information, testimony, or other evidence as needed during variance hearings.
- H. Coordinate map maintenance activities and FEMA follow-up.
- I. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

3.3 Floodplain Development Permits

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling, grading, construction, alteration, remodeling, stream restoration or

expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1.5, until a floodplain development permit is obtained from the Floodplain Administrator. Floodplain Development permits will be considered for modifications to existing structures within SFHA's and for roadway bridges, culverts and public or private utilities.

3.4 Application Required

An application for a floodplain development permit shall be required for all development activities as defined in Section 3.3 located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- A. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. Elevation of the existing, natural ground where structures are proposed.
- C. Elevation of the lowest floor, including basement, of all proposed structures.
- D. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- E. Technical analyses, including demonstrating compliance with compensatory floodplain volume, set forth in this section, conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 1. Floodproofing certification for non-residential floodproofed structure as required in Section 4.5.
 2. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 4.4(E) are designed to automatically equalize hydrostatic flood forces.
 3. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 4.9(B).
 4. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 4.9(B).

5. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 4.9(A).
6. Generation of base flood elevation(s) as required by Section 4.3.

F. A floodplain development permit application fee established by the City

3.5 Review and Approval of a Floodplain Development Permit Application

A. Review

1. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 3.4 has been received by the Floodplain Administrator.
2. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

B. Approval

Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditioned upon the commencement of substantial work within one (1) year from the earlier of the issuance of signed engineering plans, a building or zoning permit, a development permit or the issuance of a notice to proceed and thereafter pursued to completion.

3.6 Inspection

The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

3.7 Post-Construction Certifications Required

The following as-built certifications are required after a floodplain development permit has been issued:

- A. For substantially improved residential structures, or existing nonresidential structures that have been elevated, the applicant shall have a *Federal Emergency Management Agency Elevation Certificate* completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- B. For all development activities subject to the standards of Section 3.10(A), a Letter of Map Revision.

3.8 Revoking a Floodplain Development Permit

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the New Albany Planning Commission in accordance with Section 5 of these regulations.

3.9 Exemption from Filing a Floodplain Development Permit

An application for a floodplain development permit shall not be required for:

- A. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
- B. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
- C. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- D. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

3.10 Map Maintenance Activities

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that New Albany's flood maps, studies and other data identified in Section 1.6 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

A. Requirement to Submit New Technical Data

- 1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes

be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

- a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - b. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - c. Subdivision or other development proposals requiring the establishment of base flood elevations in accordance with Section 4.3;
 - d. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.
2. It is the responsibility of the applicant to have technical data, required in accordance with Section 3.10(A), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
 3. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - a. Proposed floodway encroachments that increase the base flood elevation; and
 - b. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
 4. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 3.10(A)(1).

B. Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Floodplain Administrator, and shall be submitted under the City Manager's signature at any time.

C. Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the New Albany have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that New Albany's Flood Insurance Rate Map accurately represent the New Albany's

boundaries, include within such notification a copy of a map of the New Albany's suitable for reproduction, clearly showing the new corporate limits or the new area for which the City has assumed or relinquished floodplain management regulatory authority.

3.11 Data Use and Flood Map Interpretation

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard (see also Section 1.5, herein):

- A. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
- B. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
- C. When Preliminary Flood Insurance Rate Maps and / or Flood Insurance Study have been provided by FEMA:
 1. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
 2. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and /or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and / or appeal to FEMA.
- D. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5.0, Appeals and Variances.
- E. Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, *etc.*) shall prevail.

3.12 Substantial Damage Determinations

Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, *etc.* After such a damage event, the Floodplain Administrator shall:

- A. Determine whether damaged structures are located in special flood hazard areas;
- B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

SECTION 4.0: USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1.6 or 3.11(A):

4.1 Use Regulations

A. Permitted Uses

Modifications to existing structures within SFHA's, and roadway, bridge, culverts, leisure trails, stream restoration and related activities and public or private utilities are allowed provided they meet the provisions of these regulations.

B. Prohibited Uses

1. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
2. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.
3. New residential, industrial and/or commercial development.

4.2 Water and Wastewater Systems

The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

- B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- C. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

4.3 General Standards for Development in Contact with SFHA

- A. All development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
- B. All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- C. All development proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- D. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all development proposals and other proposed developments.
- E. The applicant shall meet the requirement to submit technical data to FEMA in Section 3.10(A)(1)(d) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 4.3(D).
- F. Fill placement associated with permitted uses within SFHA's must be placed outside of the SCPZ to the greatest extent practical. This fill must be compensated for by removing material equal to 105% or greater than the fill placed.
- G. Drainage easements that coincide with the flood plain boundary shall be recorded where developments are proposed near SFHA's.
- H. Structure foundation walls must be set back a minimum distance of 20' from the edge of SFHA's

4.4 Residential Structures Contiguous to SFHA's

- A. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Substantial improvements to existing structures shall be constructed with methods and materials resistant to flood damage.
- C. Substantial improvements to existing structures shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. Substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

- E. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 4.4.
- F. In AO Zones, substantial improvements to existing structures shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- G. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - 1. Be used only for the parking of vehicles, building access, or storage; and
 - 2. be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - 3. have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- H. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors.

4.5 Nonresidential Structures

- A. Substantial improvement of existing commercial, industrial or other nonresidential structure shall meet the requirements of Section 4.4.
- B. Substantial improvement of existing commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - 1. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - 3. Be certified by a registered professional engineer or architect, through the use of a *Federal Emergency Management Agency Floodproofing Certificate*, that the

design and methods of construction are in accordance with Section 4.5(B)(1) and (2).

4.6 Accessory Structures

Relief from the elevation or dry floodproofing standards may be granted for existing accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

- A. They shall not be used for human habitation;
- B. They shall be constructed of flood resistant materials;
- C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- D. They shall be firmly anchored to prevent flotation;
- E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- F. They shall meet the opening requirements of Section 4.4(E)(3);

4.7 Recreational Vehicles

Recreational vehicles must meet at least one of the following standards:

- A. They shall not be located on sites in special flood hazard areas, or
- B. They must be fully licensed and ready for highway use, or
- C. They must meet all standards of Section 4.4.

4.8 Above Ground Gas, Liquid Storage Tanks and Dumpsters

All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads. All dumpsters shall be similarly secured.

4.9 Assurance of Flood Carrying Capacity

Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

- A. Development in Floodways Prohibited
 - 1. New development in floodway areas shall be prohibited. However, in the event such development is necessary in limited circumstances such as roadway, bridge, culverts, leisure trails, stream restoration and related activities and public or private utilities shall be subject to the provisions set forth in Subsections 2 and 3 of this section.

2. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
3. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - a. Meet the requirements to submit technical data in Section 3.10(A);
 - b. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - c. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 - d. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 - e. Concurrence of the New Albany City Manager and the Chief Executive Officer of any other communities impacted by the proposed actions.

B. Alterations of a Watercourse

For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the “bankfull stage.” The field determination of “bankfull stage” shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

1. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
2. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity

will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with New Albany specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

4. The applicant shall meet the requirements to submit technical data in Section 3.10(A)(1)(b) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

SECTION 5.0: APPEALS AND VARIANCES

5.1 Appeals and Variances

- A. The City Planning Commission shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- B. The City Planning Commission shall hear and consider variances in accordance with Section 5.3 of these regulations.

5.2 Appeal Procedures

Any person affected by any notice and order, or other official action of the Floodplain Administrator may request a hearing on the matter before the City Planning Commission, in accordance with Chapter 1113 of the New Albany Codified Ordinances, provided however that such appeal shall be heard and decided by the City Planning Commission.

5.3 Variances

Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance as set forth in Chapter 1113 of the New Albany Codified Ordinances, provided however that such appeal shall be heard and decided by the City Planning Commission. The Planning Commission shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations and as otherwise set forth in Chapter 1113 of the New Albany Codified Ordinances.

In addition to the criteria for granting variances set forth in Chapter 1113 of the New Albany Codified Ordinances, a variance shall only be issued upon:

1. A showing of good and sufficient cause.
2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.

3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
4. A determination that the structure or other development is protected by methods to minimize flood damages.
5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Planning Commission may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

5.4 Other Conditions for Variances

1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
2. Generally, variances may be issued for substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5.5 Appeal to the Court

Those aggrieved by the decision of the Planning Commission may appeal such decision to the Franklin or Licking Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

SECTION 6.0: ENFORCEMENT

6.1 Compliance Required

- A. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a floodplain development permit as stated in Section 3.9.
- B. Failure to obtain a floodplain development permit shall constitute a violation of these regulations and, upon conviction, shall be punishable in accordance with Section 6.3.

- C. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 6.3.

6.2 Notice of Violation

Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, notice of such violation shall be given to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- A. Be put in writing on an appropriate form;
- B. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
- C. Specify a reasonable time for performance;
- D. Advise the owner, operator, or occupant of the right to appeal;
- E. Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

6.3 Violations and Penalties

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of New Albany. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of New Albany from taking such other lawful action as is necessary to prevent or remedy any violation. The City of New Albany shall prosecute any violation of these regulations in accordance with the penalties stated herein.



Prepared: 10/20/2016
Introduced: 11/01/2016
Revised:
Adopted:
Effective:

ORDINANCE O-40-2016

AN ORDINANCE TO ACCEPT THE EXPEDITED TYPE 1 ANNEXATION OF 1.2 +/- ACRES FROM JERSEY TOWNSHIP, LICKING COUNTY TO THE CITY OF NEW ALBANY

WHEREAS, pursuant to petition filed by Aaron L. Underhill and David Hodge, agent for petitioners, with the Licking County Development and Planning Department, on August 25, 2016, and

WHEREAS, the foregoing Resolution #86-259 of the Licking County Commissioners was delivered to the City of New Albany on September 1, 2016 and more than sixty (60) days have lapsed since the Resolution of the Board of County Commissioners was transmitted to the City of New Albany, and

WHEREAS, pursuant to Resolution R-21-2016 of the City of New Albany, the New Albany City Manager was authorized to enter into a Roadway Maintenance Agreement with the Licking County Board of Commissioners for the maintenance of sections of roadways impacted by this annexation.

WHEREAS, the real estate is located in Licking County but is not subject to the "New Albany East Community Authority" as it is under seven acres in size, and

WHEREAS, pursuant to New Albany Codified Ordinance 1125.05, all newly annexed areas shall immediately be zoned into the Agricultural District and shall be subject to the regulations and restrictions pertaining thereto, and

WHEREAS, The New Albany City Council has determined that annexation of the real estate is in the best interests of the residents of the City of New Albany.

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

Section 1. That the application of property owners set forth in Licking County requesting the annexation of 1.2 +/- acres, which is contiguous to the City of New Albany, is hereby accepted, and the corporate boundaries of New Albany shall be extended to include the territory, more particularly described in Exhibit A, attached hereto and incorporated herein as if fully written.

Section 2. That an accurate map of the territory, hereby attached as Exhibit B, the petition for its annexation, other related documents, and a certified transcript of the proceedings of the Licking County Board of Commissioners regarding the annexation proceedings have been on file with the Clerk of Council of the City of New Albany for sixty (60) days prior to being presented to this council as required by law, and are hereby accepted.

Section 3. That Council of the City of New Albany hereby accepts the annexation of a 1.2 +/-acre tract, situated in Jersey Township, Licking County, Ohio, the same being land of the owners set forth above, for annexation to the City of New Albany.

Section 4. That the clerk is herewith directed to deliver certified copies of this ordinance and other Proceedings relative to the annexation to the County Auditor, County Recorder, and the Secretary of State.

Section 5: 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.

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-40-2016** were posted in accordance with Section 6.12 of the Charter, for 30 days starting on _____, 2016.

Jennifer Mason, Clerk of Council

Date



PRE-APPROVAL
 LICKING COUNTY ENGINEER

APPROVED CONDITIONAL

APPROVED BY: *[Signature]*

DATE: 2-17-16

ANNEXATION OF 1.2+- ACRES

FROM: TOWNSHIP OF JERSEY
TO: CITY OF NEW ALBANY

Situated in the State of Ohio, County of Licking, Township of Jersey, lying in Section 16, Quarter Township 3, Township 2, Range 15, United States Military Lands, and being all of that 0.033 acre tract conveyed as Parcel No. 46-WDV to Board of Licking County Commissioners by deed of record in Instrument Number 200608010022415 and part of that 1.333 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201310100025382 (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, in the centerline of Lucille Lynd Road (formerly Worthington Road/S.R. 161) at a common corner of said Sections 15 and 16 with Sections 14 and 17 of said Quarter Township 3, Township 3, Range 15;

Thence South 03° 06' 27" West, across said Lucille Lynd Road, with the line common to said Sections 16 and 17, a distance of 45.00 feet to the TRUE POINT OF BEGINNING;

Thence South 03° 06' 27" West, with the easterly lines of said 1.333 and 0.033 acre tracts, with the westerly lines of those original 1.205 and 101.539 acre tracts conveyed to MBJ Holdings, LLC by deeds of record in Instrument Numbers 200005030014048 and 200005030014047, respectively, and a westerly line of that 21.601 acre tract conveyed as Parcel No. 7-WDV3 to Board of Commissioners of Licking County, Ohio, by deed of record in Instrument Number 200510280034302, continuing with said common section line, a westerly line of the existing City of New Albany Corporation Line as established by Ordinance Number O-30-2002, of record in Instrument Number 200210280040677, a distance of 395.00 feet to a point;

Thence North 86° 39' 33" West, with the southerly lines of said 1.333 and 0.033 acre tracts, a northerly line of said 21.601 acre tract and the northerly line of said original 101.539 acre tract, with a northerly line of said Corporation Line (O-30-2002), a distance of 132.00 feet to a point;

Thence North 03° 06' 27" East, with the westerly line of said 1.333 acre tract, the easterly line of that 1.333 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200507260022515, the easterly line of the existing City of New Albany Corporation Line as established by Ordinance Number O-43-2009, of record in Instrument Number 201007270014304, a distance of 395.00 feet to a point in the southerly right-of-way line of said Lucille Lynd Road;

Thence South 86° 39' 34" East, with said southerly right-of-way line, a distance of 132.00 feet to the TRUE POINT OF BEGINNING containing 1.2 acres, more or less, of which 1.17 acres lies within Auditor's Parcel Number 082-106830-01.080 and 0.03 acre which lies within the Right-of-Way of Worthington Road.

This description is for annexation purposes only and is not to be used for transfer.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

[Signature]

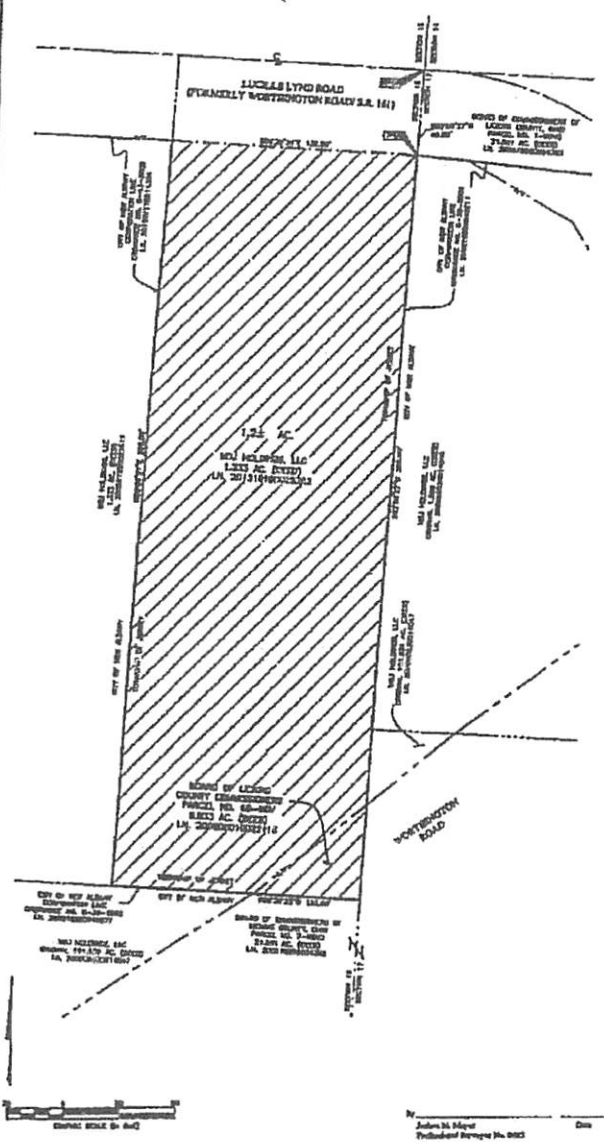
Joshua M. Meyer
 Professional Surveyor No. 8485

2-17-2016

Date

Exhibit
B

ANNEXATION OF 1.2± ACRES TO THE CITY OF NEW ALBANY FROM THE TOWNSHIP OF JERSEY SECTION 16, QUARTER TOWNSHIP 3, TOWNSHIP 2, RANGE 15 UNITED STATES MILITARY LANDS TOWNSHIP OF JERSEY, COUNTY OF LICKING, STATE OF OHIO



LOCATION MAP AND BACKGROUND SHOWING
Site to Scale
Proposed Annexation
of 1.2± acres to the City of New Albany

The white map marked exhibit "A" and made a part of the petition of annexation filed with the Board of Commissioners of Licking County, Ohio, on _____, 2011, under Chapter 305 of the Ohio Revised Code, is hereby adopted as the annexation of the territory to said petition described under the provisions of said Chapter 305 of the Ohio Revised Code.

Agent for Petitioner

The Board of County Commissioners of Licking County, Ohio, hereby resolved a petition having the signed names and addresses of the voters annexed to the annexation to the City of New Albany, Ohio, of the territory shown herein and hereby places the annexation to the purpose of said petition, as being good for law.

Board of Licking County Commissioners

Petition Number _____ of _____
 Commission _____
 Commission _____
 Commission _____

Transmitted this _____ day of _____, 2011, upon the Application of the said
 Clerk: _____
 Property Tax _____
 Licking County Auditor

Received by Board _____ of _____ (A.A.M.) and recorded
 on _____ at 10:00 a.m., 2011, in the 17th Book, Volume _____ of the
 File No. _____
 Licking County Auditor

Given by the City of New Albany, Ohio, by authorized _____
 _____, and approved by the voters on _____, 2011, at a meeting the meeting
 shall be open to the City of New Albany, Ohio, a municipal corporation.

Attest:

 Clerk, City of New Albany

APPROVED & CONFIRMED

PROPOSED CITY OF NEW ALBANY CORPORATION LINE

 EXISTING CITY OF NEW ALBANY CORPORATION LINE

Clarifying Note:
 Said portion of annexation area is 1.2± AC. of which 1.2± AC. is contiguous with the City of New Albany by Ordinance Numbers O-2-2010 and O-2-2011 giving 67% preference priority.
 Note:
 This annexation does not exempt parcels of unincorporated areas within the borders of the city to be annexed.

41	Date: February 20, 2012
	Scale: 1" = 20'
	Job No: 2011-0123
	Sheet: 1 of 1
REVISED	



John M. Meyer
 Professional Engineer No. 9333

For Army, Army of South and West America / 2011-2012 / 2011-2012



Prepared: 10/20/2016
Introduced: 11/01/2016
Revised:
Adopted:
Effective:

ORDINANCE O-41-2016

AN ORDINANCE TO ALLOW THE ABERCROMBIE AND FITCH CAMPUS PERMANENT UNRESTRICTED USE OF ITS WESTERN DRIVEWAY ONTO CENTRAL COLLEGE ROAD AND USE OF THE EASTERN DRIVEWAY ON CENTRAL COLLEGE ROAD FOR MEANS OF EGRESS AS REQUESTED BY THE ABERCROMBIE AND FITCH MANAGEMENT COMPANY

WHEREAS, In 2006, the New Albany City Council placed restrictions on the use of a western curb cut to allow limited access only for construction, emergencies, fire/emergency vehicles, special events as approved by the Village Administrator, mail trucks, and food service delivery trucks from the Abercrombie and Fitch Campus onto Central College Road, and restricting the second access drive to be permitted along Central College Road for emergencies only; and

WHEREAS, a clause in the zoning text requires any use of the driveways for purposes other than those set forth therein shall not be permitted without prior approval from the Village; and

WHEREAS, since 2006, the city has experienced additional growth in the business park in and around the Abercrombie and Fitch campus contributing to traffic on Smith's Mill Road, and

WHEREAS, since 2006, the city has improved the major intersections where traffic coming to and from State Route 161 and Central College Road would travel including, but not limited to, the five points intersection and the Walton Park and Johnstown Road intersection; and

WHEREAS, during the summer of 2016 the city manager allowed Abercrombie & Fitch full access on Central College Road so the city traffic engineer could study the impacts. The study from the city traffic engineer provided seven near and long term recommendations to improve traffic for the campus. One of those recommendations is to obtain approval for the back gate to be open permanently for year-round use.

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 Council of the City of New Albany hereby authorizes the following:

- A. To keep the restriction that only two curb cuts are permitted on Central College Road.
- B. To allow the western curb cut to be open for employee, visitor, and delivery traffic to and from the site, in addition to uses set forth in the text.
- C. To allow the east drive to be limited access for emergencies only and limited exit access to Central College Road for vehicular traffic from the site if the city administrator and traffic engineer determine the existing movement is necessary to help traffic flow in the area.

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

Section 3. Pursuant to Article 6.07(b) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption and after the effective date of the associated annexation.

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



Prepared: 10/20/2016
Introduced: 11/01/2016
Revised:
Adopted:
Effective:

ORDINANCE O-42-2016

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEW ALBANY BY AMENDING THE ZONING MAP TO REZONE 6.7 +/- ACRES OF LAND GENERALLY LOCATED AT THE SOUTHEAST CORNER OF BEECH ROAD AND WORTHINGTON ROAD INTERSECTION, AND SEPARATE PARCELS ON THE NORTH AND SOUTH SIDES OF LUCILLE LYND ROAD FOR AN AREA TO BE KNOWN AS "BEECH INTERCHANGE DISTRICT SUBAREAS E, G, & H" FROM ITS CURRENT ZONING OF "AG" AGRICULTURAL TO "L-GE" LIMITED GENERAL EMPLOYMENT AND "L-OCD" LIMITED OFFICE CAMPUS DISTRICT AS REQUESTED BY MBJ HOLDINGS C/O AARON UNDERHILL ESQ

WHEREAS, Council of the City of New Albany has determined that it is necessary to rezone certain property located in the City of New Albany to promote orderly growth and development of lands; and

WHEREAS, Planning Commission and Council of the City of New Albany, on separate occasions, have held public hearings and received public input into the amendment of the zoning ordinance; and

WHEREAS, pursuant to the application of MBJ Holdings c/o Aaron Underhill Esq., the Planning Commission of the City of New Albany has reviewed the proposed ordinance amendment and recommended its approval.

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 of the City of New Albany hereby amends the Zoning Ordinance Map of the City of New Albany to change the zoning classification of the following described sites:

- A. A 6.7 ± acre area of land located generally located at the southeast corner of the Beech Road and Worthington Road intersection, and separate parcels located on the north and south sides of Lucille Lynd Road for an area to be known as "Beech Interchange District Subareas E, G, & H" from its current zoning of "AG" Agricultural to "L-GE" Limited General Employment and "L-OCD" Limited Office Campus District;

- B. The zoning district's text and site plan is hereby attached and marked as Exhibit A.

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

Section 3. Pursuant to Article 6.07(b) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption and after the effective date of the associated annexation.

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

BEECH INTERCHANGE ZONING DISTRICT

LIMITATION TEXT

SUBAREAS E, G AND H

OCTOBER 21, 2016

I. SUMMARY: This text provides zoning standards for Subareas E, G and H in the Beech Interchange Zoning District. The Beech Interchange Zoning District was created as part of a separate zoning approval by the City of New Albany which created Subareas A-D and F in that district. A portion of the property that is the subject of this text has been annexed to the City after the annexation of the property that was included in the other zoning, driving the need to zone this property separately. This zoning district is intended to provide zoning standards and requirements that are the same or similar to those that apply to much of the portion of the New Albany International Business Park that is located in Licking County. It seeks to position the real property that is the subject of this application so that it attracts the types of successful development projects that have been realized within this area. The property that is the subject of this zoning text consists of 6.7 +/- acres located to the east of Beech Road between Worthington Road and Lucille Lynd Road, and to the southeast of the Beech Road/State Route 161 interchange.

To the extent that a standard in this text conflicts with a standard that is provided in the City of New Albany's Codified Ordinances, the standard contained in this text shall govern in this zoning district. This zoning district shall be governed by the relevant provisions of the City's Codified Ordinances to the extent that this text is silent on any particular matter.

II. SUBAREA E: Subarea E is located in the southeast quadrant of the State Route 161/Beech Road interchange, to the south of and adjacent to Lucille Lynd Road and to the east of Subarea D of the Beech Interchange Zoning District. This subarea consists of 2.66 +/- acres.

A. Zoning Designation: L-OCD, Limited Office Campus District

B. Permitted Uses: Permitted uses shall include the permitted and conditional uses contained and described in the Codified Ordinances of the City of New Albany, OCD, Office Campus District, Sections 1144.02 and 1144.03, provided that conditional uses are approved in accordance with Chapter 1115, Conditional Uses.

C. Setbacks: There shall be a minimum building and pavement setback of 25 feet from the right-of-way for Lucille Lynd Road and Worthington Road. There shall be a minimum pavement and building setback of 50 feet from all perimeter boundaries of this subarea which are adjacent to property on which residential uses are permitted. Otherwise, the minimum pavement and building setbacks from such perimeter boundaries shall be 25 feet. Other setbacks shall be provided in accordance with the requirements of applicable provisions of the Codified Ordinances. In the event that a parcel located within this Zoning District and an adjacent parcel located outside of this Zoning District (a) come under common ownership or control, (b) are zoned to allow compatible non-residential uses, and (c) are combined into a single parcel, then any minimum building, pavement, or landscaping setbacks set forth in this text shall no longer apply with respect to these parcels.

D. Lot Coverage: There shall be a maximum lot coverage of 75% in this subarea.

E. Access and Traffic Commitments:

1. The developer shall work with the City Manager or his designee to determine the appropriate timing and phasing of all required street improvements.
2. The number, locations, and spacing of curbcuts on public rights-of-way shall be determined and approved by the City Manager or his designee in consultation with the relevant developer at the time that a certificate of appropriateness is issued for a project in this zoning district.
3. Pedestrian Circulation: An internal pedestrian circulation system shall be created so that a pedestrian using a public sidewalk and/or leisure trail along a public street can access adjacent buildings through their parking lots as delineated with markings, crosswalks, and/or different materials, directing foot traffic, where possible, away from primary access drives.

F. Buffering, Landscaping, Open Space, and Screening: The following landscaping requirements shall apply to this subarea:

1. Minimum On-Site Tree Sizes: Unless otherwise set forth herein, minimum tree size at installation shall be no less than two and one half (2 ½) inches in caliper for shade trees, six (6) feet in height for evergreen trees, two (2) inches in caliper for ornamental trees, and thirty (30) inches in height for shrubs. Caliper shall be measured six (6) inches above grade.
2. Landscaping within required pavement setbacks shall be consistent throughout the subarea and shall be coordinated with the landscaping within pavement setbacks in adjacent zoning districts.
3. All project landscape plans are subject to review and approval by the City Landscape Architect.
4. Pedestrian Circulation: An internal pedestrian circulation system shall be created so that a pedestrian using a public sidewalk along a public street can access the adjacent buildings through their parking lots as delineated with markings, crosswalks, and/or different materials, directing foot traffic, where possible, away from primary access drives.
5. Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line. Preservation Zones shall be deemed to include all minimum pavement setbacks along the perimeter boundaries of this zoning district that are not adjacent to a public right-of-way. Within the Preservation Zones located within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees within these areas may be removed if they present a danger to persons or property.

G. Lighting:

1. All parking lot and private driveway lighting shall be cut-off type fixtures and down cast. Parking lot lighting shall be from a controlled source in order to minimize light spilling beyond the boundaries of the site.
2. All parking lot lighting shall be of the same light source type and style. Building, pedestrian, and landscape lighting may be incandescent or metal halide.

3. All parking lot light poles shall be black or New Albany green and constructed of metal. Light poles shall not exceed 30 feet in height.
4. Lighting details shall be included in the landscape plan which is subject to review and approval by the City Landscape Architect.
5. No permanent colored lights or neon lights shall be used on the exterior of any building.
6. All other lighting on the site shall be in accordance with City Code.
7. Security lighting, when used, shall be of a “motion sensor” type.
8. Street lighting must meet City Standards and Specifications.

H. **Utilities:** All new electric lines along all new public roadway shall be installed underground.

I. **Roof-Mounted Equipment:** Complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building’s façade and character. Such screening shall be provided in order to screen the equipment from off-site view and to buffer sound generated by such equipment.

III. SUBAREA G: Subarea G is located in the southeast quadrant of the State Route 161/Beech Road interchange, adjacent to the State Route 161 right-of-way. This subarea consists of 3.308 +/- acres.

A. **Zoning Designation:** L-OCD, Limited Office Campus District

B. **Permitted Uses:** Permitted uses shall include the permitted and conditional uses contained and described in the Codified Ordinances of the City of New Albany, OCD, Office Campus District, Sections 1144.02 and 1144.03, provided that conditional uses are approved in accordance with Chapter 1115, Conditional Uses.

C. **Setbacks:** There shall be a minimum building and pavement setback of 25 feet from the right-of-way for Lucille Lynd Road and Worthington Road. There shall be a minimum pavement and building setback of 50 feet from all perimeter boundaries of this subarea which are adjacent to property on which residential uses are permitted. Otherwise, the minimum pavement and building setbacks from such perimeter boundaries shall be 25 feet. Other setbacks shall be provided in accordance with the requirements of applicable provisions of the Codified Ordinances. In the event that a parcel located within this Zoning District and an adjacent parcel located outside of this Zoning District (a) come under common ownership or control, (b) are zoned to allow compatible non-residential uses, and (c) are combined into a single parcel, then any minimum building, pavement, or landscaping setbacks set forth in this text shall no longer apply with respect to these parcels.

D. **Lot Coverage:** There shall be a maximum lot coverage of 75% in this subarea.

E. **Access and Traffic Commitments:**

1. The developer shall work with the City Manager or his designee to determine the appropriate timing and phasing of all required street improvements.

2. The number, locations, and spacing of curbcuts on public rights-of-way shall be determined and approved by the City Manager or his designee in consultation with the relevant developer at the time that a certificate of appropriateness is issued for a project in this zoning district.

3. Pedestrian Circulation: An internal pedestrian circulation system shall be created so that a pedestrian using a public sidewalk and/or leisure trail along a public street can access adjacent buildings through their parking lots as delineated with markings, crosswalks, and/or different materials, directing foot traffic, where possible, away from primary access drives.

F. Buffering, Landscaping, Open Space, and Screening: The following landscaping requirements shall apply to this subarea:

1. Minimum On-Site Tree Sizes: Unless otherwise set forth herein, minimum tree size at installation shall be no less than two and one half (2 ½) inches in caliper for shade trees, six (6) feet in height for evergreen trees, two (2) inches in caliper for ornamental trees, and thirty (30) inches in height for shrubs. Caliper shall be measured six (6) inches above grade.

2. Landscaping within required pavement setbacks shall be consistent throughout the subarea and shall be coordinated with the landscaping within pavement setbacks in adjacent zoning districts.

3. All project landscape plans are subject to review and approval by the City Landscape Architect.

4. Pedestrian Circulation: An internal pedestrian circulation system shall be created so that a pedestrian using a public sidewalk along a public street can access the adjacent buildings through their parking lots as delineated with markings, crosswalks, and/or different materials, directing foot traffic, where possible, away from primary access drives.

5. Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line. Preservation Zones shall be deemed to include all minimum pavement setbacks along the perimeter boundaries of this zoning district that are not adjacent to a public right-of-way. Within the Preservation Zones located within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees within these areas may be removed if they present a danger to persons or property.

G. Lighting:

1. All parking lot and private driveway lighting shall be cut-off type fixtures and down cast. Parking lot lighting shall be from a controlled source in order to minimize light spilling beyond the boundaries of the site.

2. All parking lot lighting shall be of the same light source type and style. Building, pedestrian, and landscape lighting may be incandescent or metal halide.

3. All parking lot light poles shall be black or New Albany green and constructed of metal. Light poles shall not exceed 30 feet in height.

4. Lighting details shall be included in the landscape plan which is subject to review and approval

by the City Landscape Architect.

5. No permanent colored lights or neon lights shall be used on the exterior of any building.
6. All other lighting on the site shall be in accordance with City Code.
7. Security lighting, when used, shall be of a “motion sensor” type.
8. Street lighting must meet City Standards and Specifications.

H. Utilities: All new electric lines along all new public roadway shall be installed underground.

I. Roof-Mounted Equipment: Complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building’s façade and character. Such screening shall be provided in order to screen the equipment from off-site view and to buffer sound generated by such equipment.

IV. SUBAREA H: Subarea H is located to the southeast of and adjacent to the intersection of Beech Road and Worthington Road. This subarea consists of 0.735 +/- acres.

A. Zoning Designation: L-GE, Limited General Employment District

B. Permitted Uses: The permitted and conditional uses contained and described in the Codified Ordinances of the City of New Albany, GE, General Employment District, Sections 1153.02 and 1153.03, provided that conditional uses are approved in accordance with Chapter 1115, Conditional Uses. The following uses from these code sections shall be prohibited:

1. Industrial product sales (See Section 1153.03(a)(1));
2. Industrial service (See Section 1153.03(a)(2));
3. Mini-warehouses (See Section 1153.03(a)(4)(c));
4. Personal service (See Section 1153.03(b)(2)) and retail product sales and service (See Section 1153.03(b)(3)), except that such uses shall be allowed as accessory uses to a permitted use in this subarea;
5. Vehicle services (See Section 1153.03(b)(4));
6. Radio/television broadcast facilities (See Section 1153.03(c)(1)); and
7. Sexually-oriented businesses (See Section 1153.03(c)(3)).

C. Access, Parking, Site Circulation, and Traffic Commitments:

1. The developer shall work with the City Manager or his designee to determine the appropriate timing and phasing of all required street improvements.
2. The number, locations, and spacing of curbcuts on public rights-of-way shall be determined and approved by the City Manager or his designee in consultation with the developer at the time that a certificate of appropriateness is issued for a project in this subarea.
3. Parking and loading spaces shall be provided for each use per Section 1167 of the Codified Ordinances of the City of New Albany.

D. Lot and Setback Commitments:

1. **Lot Coverage:** There shall be a maximum lot coverage in this subarea of 75%.
2. **Setbacks:**
 - a. **Beech Road:** There shall be a minimum building and pavement setback of 50 feet from the Beech Road right-of-way for office and similar or related uses. There shall be a minimum pavement setback of 50 feet and a minimum building setback of 100 feet from the Beech Road right-of-way for all other uses.
 - b. **Worthington Road:** There shall be a minimum pavement setback of 25 feet and a minimum building setback of 50 feet from the Worthington Road right-of-way.
 - c. **Perimeter Boundaries:** There shall be a minimum pavement and building setback of 50 feet from all perimeter boundaries of this subarea which are adjacent to property on which residential uses are permitted. Otherwise, the minimum pavement and the building setback shall be 25 feet from such perimeter boundaries.
 - d. **Elimination of Setbacks:** In the event that a parcel located within this subarea and an adjacent parcel located outside of this subarea (a) come under common ownership or control, (b) are zoned to allow compatible non-residential uses, and (c) are combined into a single parcel, then any minimum building, pavement, or landscaping setbacks set forth in this text shall no longer apply with respect to these parcels.

E. Architectural Standards:

1. **Building Height:** The maximum building height for structures in this subarea shall be 65 feet.
2. **Service and Loading Areas:** Service areas and loading docks shall be screened in accordance with City Code.
3. **Building Design:**
 - a. Building designs shall not mix architectural elements or ornamentation from different styles.
 - b. Buildings shall be required to employ a comparable use of materials on all elevations.
 - c. The number, location, spacing, and shapes of windows and door openings shall be carefully considered. Primary entrances to buildings shall be made sufficiently prominent that they can be easily identified from a distance.
 - d. For office buildings and complexes, achieving a human or pedestrian scale is of less concern. When achieving such a scale is desired, it may be achieved by careful attention to width of facades, size and spacing of window and door openings, and floor to floor heights on exterior walls.
 - e. Use of elements such as shutters, cupolas, dormers, and roof balustrades shall be avoided in building designs that are not based on traditional American architectural styles. Such

elements may be employed only when they are common elements of a specific style, and this style shall be replicated in its entirety. When shutters are employed, even if they are non-operable, they must be sized and mounted in a way that gives the appearance of operability.

f. Elements such as meter boxes, utility conduits, roof and wall projections such as vent and exhaust pipes, basement window enclosures, and trash containers shall be designed, located, or screened so as to minimize their visibility and visual impact.

g. Accessory or ancillary buildings, whether attached or detached, shall be of similar design, materials and construction as the nearest primary structure. Fenestration themes that employ windows, panels and piers that are consistent with the architectural vocabulary of the building are encouraged.

4. Building Form:

a. All building elevations shall be designed to be compatible with each other and to reflect a consistent design approach.

b. Gable or hip roofs shall be avoided unless a building design replicates a traditional American architectural style that employs such roof forms. In non-stylistic contemporary designs, low or flat roofs may be employed. Roof visibility shall be minimized.

5. Materials:

a. Exterior building materials shall be appropriate for contemporary suburban designs and shall avoid overly reflective surfaces. Traditional materials such as, but not limited to, wood, stone, brick, and concrete shall be permitted, along with contemporary materials such as, but not limited to, aluminum, metal, glass, stucco, or cementitious fiberboard (e.g., hardiplank or equivalent) shall be permitted on buildings not employing traditional styles. The use of reflective or mirrored glass shall be prohibited.

b. Prefabricated metal buildings, untreated masonry block structures, and buildings featuring poured concrete exterior walls are prohibited.

c. Generally, the quantity of materials selected for a building shall be minimized. A single material selection for the independent building components of roof, wall and accents is permitted (i.e., Architectural Grade shingle roof with Brick Masonry wall and EIFS Cornice and Accents).

d. Loading docks are not required to have the same degree of finish as a main entry unless they are visible from a public right-of-way.

e. Additional Standards for Uses Not Governed by DGRs: Buildings that are constructed to accommodate certain uses are not governed by the City's Design Guidelines and Requirements (DGRs). For example, buildings that are constructed for the operation of warehousing and/or distribution uses are not subject to the DGRs and can present challenges in meeting the community standard for architectural design. Such buildings are

necessarily large and typically include long walls that together form a square or rectangular box. The goal for the development of buildings that are not subject to the DGRs is to balance the practical needs of these buildings with the desire to provide exterior designs that are attractive and complimentary to the architecture that will be found elsewhere in this zoning district.

Architecture by its nature is a subjective medium, meaning that the adoption of strict objective standards in all instances may not provide the best means for achieving appropriate design. In recognition of this fact, the standards set forth herein provide guidelines and suggestions for designing buildings that are not subject to the DGRs in an effort to set expectations for the quality of architecture that will be expected for these structures. On the other hand, these standards are meant to allow for some flexibility to encourage innovative design provided that the spirit and intent of these provisions are met.

In conjunction with an application for a certificate of appropriateness for each building or structure in this subarea that is not subject to or governed by the DGRs, the applicant shall be required to submit to the City illustrations of the proposed exterior design of the building or structure for review and approval by the Design Review Committee contemplated in Section 1157.08(a)(1)(D) of the City Code. In designing such buildings, the user or applicant shall take into account the following, which are intended to set a level of expectation for the quality of design:

- i. Architectural design for all portions of a building or structure that are visible from a public right-of-way (excluding public rights-of-way whose primary purpose is to accommodate truck traffic or service loading areas) shall meet the community standard in terms of quality while taking into account the unique nature of the use(s) that will be found therein.
- ii. Uninterrupted blank wall facades shall be prohibited to the extent that they are visible from a public right-of-way. Design variations on long exterior walls shall be employed in order to create visual interest. Examples of such design variations include, but are not limited to, the use of offsets, recesses and/or projections, banding, windows, and/or reveals; scoring of building facades; color changes; texture or material changes; and variety in building height.
- iii. The use of one or more architectural or design elements may be used to soften the aesthetics of the building, such as but not limited to canopies, porticos, overhangs, arches, outdoor patios, community spaces, or similar devices.
- iv. Contemporary exterior designs, while not required, shall be encouraged in order to create architecture that does not look aged or dated even many years after the facility is built.
- v. Landscaping and/or the use of existing vegetation shall be utilized where appropriate to enhance the aesthetics of the building and to lessen its visual impact when viewed from public rights-of-way.

6. **Roof-Mounted Equipment:** Complete screening of all roof-mounted equipment shall be required on all four sides of buildings with materials that are consistent and harmonious with the building's

façade and character. Such screening shall be provided in order to screen the equipment from off-site view and to buffer sound generated by such equipment.

F. Buffering, Landscaping, Open Space, and Screening: The following landscaping requirements shall apply to this subarea:

1. Tree Preservation and Replacement: Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line. Preservation Zones shall be deemed to include all minimum pavement setbacks along the perimeter boundaries of this zoning district that are not adjacent to a public right-of-way. Within the Preservation Zones located within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees within these areas may be removed if they present a danger to persons or property.
2. Beech Road:
 - a. Landscaping within the pavement setback along Beech Road shall be coordinated and consistent throughout this zoning district.
 - b. A landscape buffer will be located within the pavement setback along Beech Road. The buffer shall be planted with a minimum quantity of one tree per 25 feet, in addition to street trees. Trees shall be randomly planted to create a naturalized appearance. Trees shall be of native species. Evergreen trees or shrubs shall not be permitted in the area between the buffer landscape and the edge of street pavement. For landscaping which is not used to meet zoning text, codified ordinance and street tree requirements, the minimum caliper of tree material may be reduced to 1" caliper to gain additional plant material. A four-board white horse fence may be located 1 foot from the edge of the right-of-way along Beech Road. Where screening of parking areas is required along Beech Road, the buffer shall have a minimum height of 3.5 feet and a minimum opacity of 75%.
 - c. This buffer may consist of mounding not to exceed (no steeper than) a 6:1 ratio and tree plantings. Mounding, when used, shall be a minimum height of 3 feet and maximum of 12 feet. Trees shall be planted on the mound with a minimum of 70% of the trees occurring on the street side. No trees shall be located within the upper quartile of the crest of the mound.
3. A mound with a maximum height of 6 feet may be installed within the pavement setback along any perimeter boundary of this subarea that is adjacent to residential uses. The use and appearance of such mound is subject to review and approval of the City Landscape Architect.
4. Street Trees: A street tree row shall be established along all publicly dedicated rights-of-way within or adjacent to this subarea and shall contain one (1) tree for every thirty (30) feet of road frontage. Trees may be grouped or regularly spaced. Minimum street tree size at installation shall be three (3) caliper inches. This requirement may be waived in areas where existing vegetation occurs, subject to approval of the City Landscape Architect.
5. Parking Areas: Within this subarea, there shall be no less than one (1) tree planted for every ten

(10) parking spaces located therein. At least five percent (5%) of the vehicular use area shall be landscaped or green space (or treed areas). Parking lots shall be designed to accommodate parking lot islands with tree(s) at the end of parking aisles.

6. Pedestrian Circulation: An internal pedestrian circulation system shall be created so that a pedestrian using a public sidewalk along a public street can access the adjacent buildings through their parking lots as delineated with markings, crosswalks, and/or different materials, directing foot traffic, where possible, away from primary access drives.

7. Minimum On-Site Tree Sizes: Unless otherwise set forth herein, minimum tree size at installation shall be no less than two and one half (2 ½) inches in caliper for shade trees, six (6) feet in height for evergreen trees, two (2) inches in caliper for ornamental trees, and thirty (30) inches in height for shrubs. Caliper shall be measured six (6) inches above grade.

8. All street trees that are not installed prior to infrastructure acceptance shall be bonded to guarantee installation.

9. Perimeter Trees: Within these perimeter setbacks, the developer shall preserve existing healthy and mature trees and vegetation but shall be permitted to place utilities within or allow them to cross through these areas, provided, however, that the developer shall use good faith efforts to place utilities in a manner that minimizes the impact on healthy and mature trees. Trees within these areas may be removed if they present a danger to persons or property.

10. All project landscape plans are subject to review and approval by the City Landscape Architect.

G. Lighting:

1. All parking lot and private driveway lighting shall be cut-off type fixtures and down cast. Parking lot lighting shall be from a controlled source in order to minimize light spilling beyond the boundaries of the site.

2. All parking lot lighting shall be of the same light source type and style. Building, pedestrian, and landscape lighting may be incandescent or metal halide.

3. All parking lot light poles shall be black or New Albany green and constructed of metal. Light poles shall not exceed 30 feet in height.

4. Landscape uplighting from a concealed source shall be subject to staff approval. All uplighting fixtures must be screened by landscaping. Lighting details shall be included in the landscape plan which is subject to review and approval by the City Landscape Architect.

5. No permanent colored lights or neon lights shall be used on the exterior of any building.

6. All new electrical utilities that are installed in this subarea shall be located underground.

7. All other lighting on the site shall be in accordance with City Code.

8. Street lighting must meet the City Standards and Specifications.

H. Signage: All signage shall conform to the standards set forth in Chapter 1169 of the Codified Ordinances

of the City of New Albany.

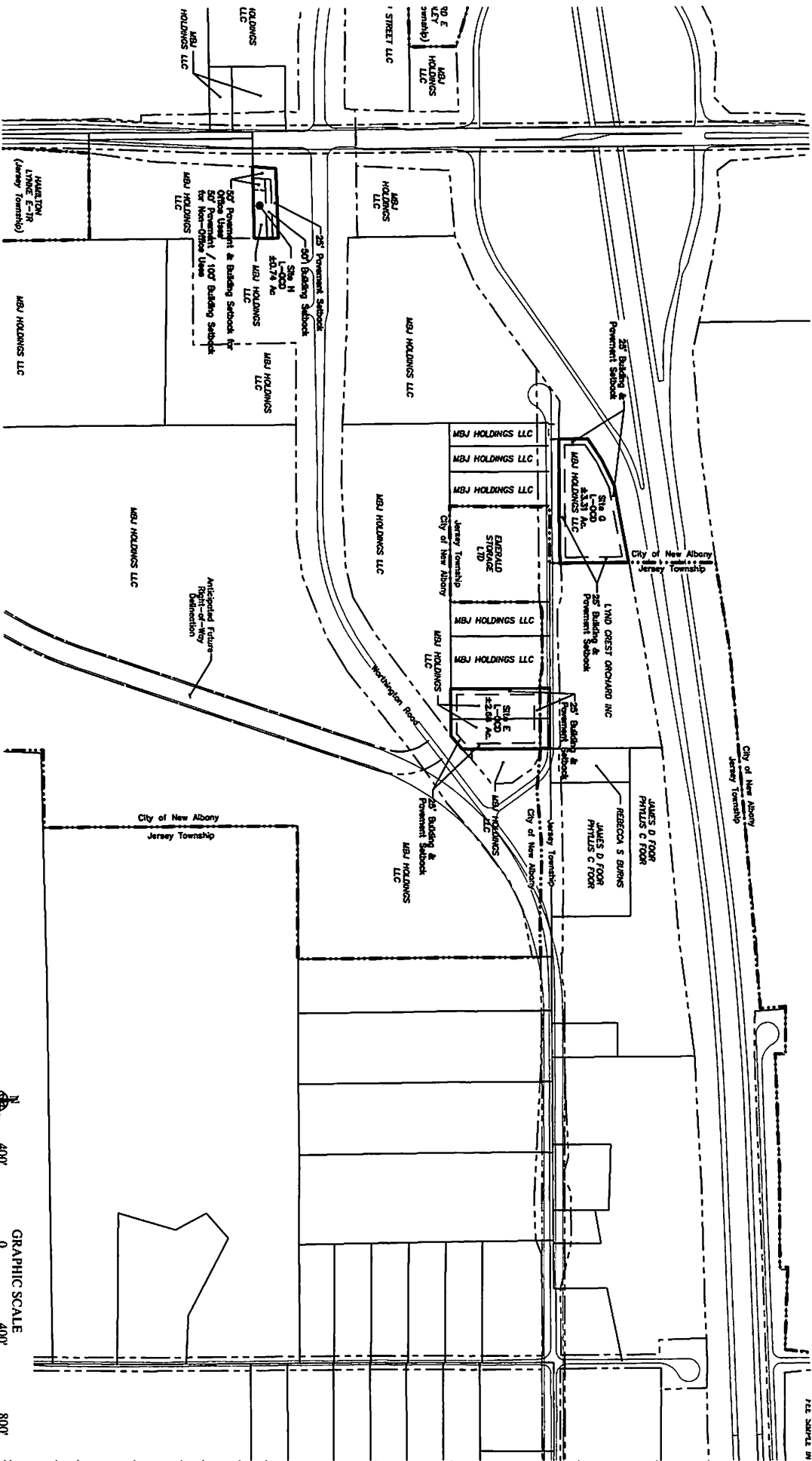
I. Utilities: All utilities shall be installed underground.

Beech Interchange Zoning District: Sub-Area E, G & H

New Albany, Ohio

THE NEW ALBANY COMPANY

October 2016





Prepared: 10/21/2016
Introduced: 11/01/2016
Revised:
Adopted:
Effective:

ORDINANCE O-43-2016

AN ORDINANCE TO CHANGE THE NAME OF A STREET IN THE CITY OF NEW ALBANY FROM "STEEPLECHASE LANE" TO "STEEPLECHASE WAY" AS REQUESTED BY THE CITY OF NEW ALBANY

WHEREAS, New Albany City Council approved a final plat for right-of-way for a street known as Steeplechase Lane on May 19, 2015 via Resolution R-24-2015; and

WHEREAS, the Plain Township Fire Department has requested the name change due to another public street sharing the same name within the immediate vicinity of the Plain Township; and

WHEREAS, one third party address will be affected by such name change as one property is fronting Steeplechase Lane.

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

Section 1. That the name of the road named STEEPLECHASE LANE in the City of New Albany be and is hereby changed to STEEPLECHASE WAY.

Section 2. That the clerk be directed to execute this road name change with the Franklin County Recorder's Office, the Franklin County Engineer's Office, and other Franklin County Offices.

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 Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED

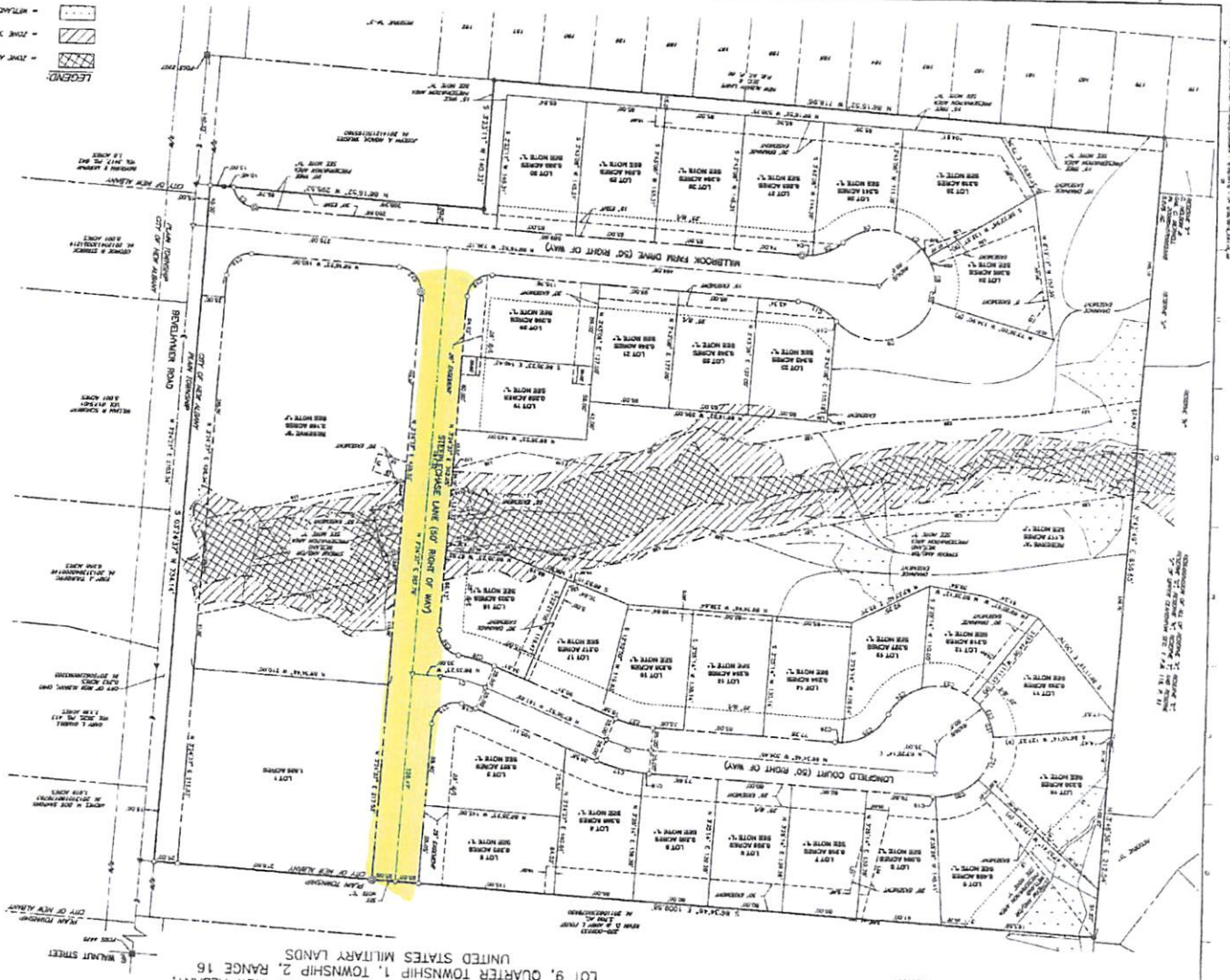
EXHIBIT A

MILLBROOK FARM AT SUGAR RUN
 STATE OF OHIO, COUNTY OF FRANKLIN, CITY OF NEW ALBANY,
 LOT 9, QUARTER TOWNSHIP 1, TOWNSHIP 2, RANGE 16
 UNITED STATES MILITARY LANDS

PATNOX 110 95 8



SCALE IN FEET



LEGEND
 - 50' X 100' (SEE NOTE B)
 - 50' X 100' (SEE NOTE B)
 - 50' X 100' (SEE NOTE B)

GRAFWOLF PROPERTIES
 MILLBROOK FARM AT SUGAR RUN
 CITY OF NEW ALBANY

Civil & Environmental Consultants, Inc.

1000 W. 10th Street, Suite 100, Columbus, OH 43260
 614.261.1111
 www.grawolf.com

PLAT

DATE: 11/11/2011
 DRAWN BY: J. B. BROWN
 CHECKED BY: J. B. BROWN
 SCALE: AS SHOWN

CURVE TABLE

CHORD BEARS	DATA	LENGTH	CHD
1	11.25	11.25	11.25
2	22.50	22.50	22.50
3	33.75	33.75	33.75
4	45.00	45.00	45.00
5	56.25	56.25	56.25
6	67.50	67.50	67.50
7	78.75	78.75	78.75
8	90.00	90.00	90.00
9	101.25	101.25	101.25
10	112.50	112.50	112.50
11	123.75	123.75	123.75
12	135.00	135.00	135.00
13	146.25	146.25	146.25
14	157.50	157.50	157.50
15	168.75	168.75	168.75
16	180.00	180.00	180.00
17	191.25	191.25	191.25
18	202.50	202.50	202.50
19	213.75	213.75	213.75
20	225.00	225.00	225.00
21	236.25	236.25	236.25
22	247.50	247.50	247.50
23	258.75	258.75	258.75
24	270.00	270.00	270.00
25	281.25	281.25	281.25
26	292.50	292.50	292.50
27	303.75	303.75	303.75
28	315.00	315.00	315.00
29	326.25	326.25	326.25
30	337.50	337.50	337.50
31	348.75	348.75	348.75
32	360.00	360.00	360.00
33	371.25	371.25	371.25
34	382.50	382.50	382.50
35	393.75	393.75	393.75
36	405.00	405.00	405.00
37	416.25	416.25	416.25
38	427.50	427.50	427.50
39	438.75	438.75	438.75
40	450.00	450.00	450.00
41	461.25	461.25	461.25
42	472.50	472.50	472.50
43	483.75	483.75	483.75
44	495.00	495.00	495.00
45	506.25	506.25	506.25
46	517.50	517.50	517.50
47	528.75	528.75	528.75
48	540.00	540.00	540.00
49	551.25	551.25	551.25
50	562.50	562.50	562.50
51	573.75	573.75	573.75
52	585.00	585.00	585.00
53	596.25	596.25	596.25
54	607.50	607.50	607.50
55	618.75	618.75	618.75
56	630.00	630.00	630.00
57	641.25	641.25	641.25
58	652.50	652.50	652.50
59	663.75	663.75	663.75
60	675.00	675.00	675.00
61	686.25	686.25	686.25
62	697.50	697.50	697.50
63	708.75	708.75	708.75
64	720.00	720.00	720.00
65	731.25	731.25	731.25
66	742.50	742.50	742.50
67	753.75	753.75	753.75
68	765.00	765.00	765.00
69	776.25	776.25	776.25
70	787.50	787.50	787.50
71	798.75	798.75	798.75
72	810.00	810.00	810.00
73	821.25	821.25	821.25
74	832.50	832.50	832.50
75	843.75	843.75	843.75
76	855.00	855.00	855.00
77	866.25	866.25	866.25
78	877.50	877.50	877.50
79	888.75	888.75	888.75
80	900.00	900.00	900.00
81	911.25	911.25	911.25
82	922.50	922.50	922.50
83	933.75	933.75	933.75
84	945.00	945.00	945.00
85	956.25	956.25	956.25
86	967.50	967.50	967.50
87	978.75	978.75	978.75
88	990.00	990.00	990.00
89	1001.25	1001.25	1001.25
90	1012.50	1012.50	1012.50
91	1023.75	1023.75	1023.75
92	1035.00	1035.00	1035.00
93	1046.25	1046.25	1046.25
94	1057.50	1057.50	1057.50
95	1068.75	1068.75	1068.75
96	1080.00	1080.00	1080.00
97	1091.25	1091.25	1091.25
98	1102.50	1102.50	1102.50
99	1113.75	1113.75	1113.75
100	1125.00	1125.00	1125.00

LINE TABLE

LINE #	DIRECTION	LENGTH
1	N 00° 00' 00" E	112.50
2	N 00° 00' 00" E	112.50
3	N 00° 00' 00" E	112.50
4	N 00° 00' 00" E	112.50
5	N 00° 00' 00" E	112.50
6	N 00° 00' 00" E	112.50
7	N 00° 00' 00" E	112.50
8	N 00° 00' 00" E	112.50
9	N 00° 00' 00" E	112.50
10	N 00° 00' 00" E	112.50
11	N 00° 00' 00" E	112.50
12	N 00° 00' 00" E	112.50
13	N 00° 00' 00" E	112.50
14	N 00° 00' 00" E	112.50
15	N 00° 00' 00" E	112.50
16	N 00° 00' 00" E	112.50
17	N 00° 00' 00" E	112.50
18	N 00° 00' 00" E	112.50
19	N 00° 00' 00" E	112.50
20	N 00° 00' 00" E	112.50
21	N 00° 00' 00" E	112.50
22	N 00° 00' 00" E	112.50
23	N 00° 00' 00" E	112.50
24	N 00° 00' 00" E	112.50
25	N 00° 00' 00" E	112.50
26	N 00° 00' 00" E	112.50
27	N 00° 00' 00" E	112.50
28	N 00° 00' 00" E	112.50
29	N 00° 00' 00" E	112.50
30	N 00° 00' 00" E	112.50
31	N 00° 00' 00" E	112.50
32	N 00° 00' 00" E	112.50
33	N 00° 00' 00" E	112.50
34	N 00° 00' 00" E	112.50
35	N 00° 00' 00" E	112.50
36	N 00° 00' 00" E	112.50
37	N 00° 00' 00" E	112.50
38	N 00° 00' 00" E	112.50
39	N 00° 00' 00" E	112.50
40	N 00° 00' 00" E	112.50
41	N 00° 00' 00" E	112.50
42	N 00° 00' 00" E	112.50
43	N 00° 00' 00" E	112.50
44	N 00° 00' 00" E	112.50
45	N 00° 00' 00" E	112.50
46	N 00° 00' 00" E	112.50
47	N 00° 00' 00" E	112.50
48	N 00° 00' 00" E	112.50
49	N 00° 00' 00" E	112.50
50	N 00° 00' 00" E	112.50
51	N 00° 00' 00" E	112.50
52	N 00° 00' 00" E	112.50
53	N 00° 00' 00" E	112.50
54	N 00° 00' 00" E	112.50
55	N 00° 00' 00" E	112.50
56	N 00° 00' 00" E	112.50
57	N 00° 00' 00" E	112.50
58	N 00° 00' 00" E	112.50
59	N 00° 00' 00" E	112.50
60	N 00° 00' 00" E	112.50
61	N 00° 00' 00" E	112.50
62	N 00° 00' 00" E	112.50
63	N 00° 00' 00" E	112.50
64	N 00° 00' 00" E	112.50
65	N 00° 00' 00" E	112.50
66	N 00° 00' 00" E	112.50
67	N 00° 00' 00" E	112.50
68	N 00° 00' 00" E	112.50
69	N 00° 00' 00" E	112.50
70	N 00° 00' 00" E	112.50
71	N 00° 00' 00" E	112.50
72	N 00° 00' 00" E	112.50
73	N 00° 00' 00" E	112.50
74	N 00° 00' 00" E	112.50
75	N 00° 00' 00" E	112.50
76	N 00° 00' 00" E	112.50
77	N 00° 00' 00" E	112.50
78	N 00° 00' 00" E	112.50
79	N 00° 00' 00" E	112.50
80	N 00° 00' 00" E	112.50
81	N 00° 00' 00" E	112.50
82	N 00° 00' 00" E	112.50
83	N 00° 00' 00" E	112.50
84	N 00° 00' 00" E	112.50
85	N 00° 00' 00" E	112.50
86	N 00° 00' 00" E	112.50
87	N 00° 00' 00" E	112.50
88	N 00° 00' 00" E	112.50
89	N 00° 00' 00" E	112.50
90	N 00° 00' 00" E	112.50
91	N 00° 00' 00" E	112.50
92	N 00° 00' 00" E	112.50
93	N 00° 00' 00" E	112.50
94	N 00° 00' 00" E	112.50
95	N 00° 00' 00" E	112.50
96	N 00° 00' 00" E	112.50
97	N 00° 00' 00" E	112.50
98	N 00° 00' 00" E	112.50
99	N 00° 00' 00" E	112.50
100	N 00° 00' 00" E	112.50



Prepared: 10/14/16
Introduced: 11/01/16
Revised:
Adopted:
Effective:

RESOLUTION R-45-2016

A RESOLUTION TO AMEND THE OAK GROVE II COMMUNITY REINVESTMENT AREA CONSISTING OF APPROXIMATELY 134.06 +/- ACRES, DESIGNATING A HOUSING OFFICER AND CREATING A COMMUNITY REINVESTMENT AREA HOUSING COUNCIL AND TAX INCENTIVE REVIEW COUNCIL AND TO EXPAND THE DESIGNATION OF THE OAK GROVE II ECONOMIC OPPORTUNITY ZONE

WHEREAS, the Council of the City of New Albany, Ohio (the "City") desires to pursue all reasonable and legitimate incentive measures to assist and encourage development in specific areas of the City that have not enjoyed sufficient reinvestment in new construction; and

WHEREAS, the Council of the City, by its Resolution No. R-17-09 adopted March 3, 2009, designated the Oak Grove II Community Reinvestment Area (the "Oak Grove II Area") and by its Resolutions No. R-41-2010, R-72-2010, R-53-2012, R-26-2013, R-72-2014, and R-49-2015 expanded the designation of the original area, which enables the City to offer real property tax exemptions on the construction of certain new structures and the remodeling of certain existing structures as described in Ohio Revised Code ("R.C.") Section 3735.67; and

WHEREAS, the City desires to promote commercial and industrial development in an area contiguous to the Oak Grove II Area, which contiguous area includes approximately 134.06 +/- acres and which is described more completely on Exhibit A attached hereto (the "Oak Grove II Expanded Area"); and

WHEREAS, the City believes that the redevelopment of the Oak Grove II Area would encourage economic stability, maintain real property values and generate new employment opportunities and desires to designate the Oak Grove II Area as a community reinvestment area pursuant to R.C. Sections 3735.65 to 3735.70; and

WHEREAS, as required by R.C. Section 3735.66, a survey of housing was prepared for the Oak Grove II Expanded Area (the "Survey"); and

WHEREAS, the Survey shows the facts and conditions relating to existing housing and commercial structures and undeveloped land in the Oak Grove II Expanded Area, including, among other things, evidence of deterioration and lack of new construction, or repair or rehabilitation, of structures in substantial portions of the Oak Grove II Expanded Area; and

WHEREAS, the construction of new commercial or industrial structures in the Oak Grove II Expanded Area would serve to encourage economic stability, maintain real property values and generate new employment opportunities; and

WHEREAS, the construction of new commercial or industrial structures in the Oak Grove II Expanded Area constitutes a public purpose for which real property tax exemptions may be granted; and

WHEREAS, the City created an economic opportunity zone (the "Oak Grove II EOZ") to encourage commercial and other business development in the city and now the City, to consistently preserve areas and zones, wishes to expand the Oak Grove II EOZ in conjunction with the expansion of the Oak Grove II CRA so that the two, when mapped, equate the same boundaries;

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

Section 1. Conditions in the Oak Grove II Expanded Area. Based on the findings in the Survey and on this Council's own knowledge of the facts and conditions existing in the Oak Grove II Expanded Area, this Council hereby finds that the Oak Grove II Expanded Area is one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.

Section 2. Creation of Oak Grove II Expanded CRA. This Council hereby designates the Oak Grove II Expanded Area as a community reinvestment area (the "Oak Grove II CRA") in accordance with R.C. Section 3735.66. Only new commercial and/or industrial structures consistent with the applicable zoning regulations within the Oak Grove II CRA will be eligible for the exemptions provided for in Section 3 hereof. Residential remodeling or new structures, including, but not limited to, multi-family condominium or apartment structures or remodeling thereof, shall not be eligible for the exemptions granted in Section 3 hereof.

~~**Section 3.** Tax Exemptions in the Oak Grove II CRA. Within the Oak Grove II CRA, the percentage of~~
Section 3. Tax Exemptions in the Oak Grove II CRA. Within the Oak Grove II CRA, the percentage of the tax exemption on the increase in the assessed valuation resulting from improvements to commercial and industrial real property and the term of those exemptions shall be negotiated in advance of construction occurring according to the rules outlined in R.C. Section 3735.67. The City has the authority to negotiate, approve or deny any request for tax exemptions. The results of the negotiation as approved by this Council will be set forth in writing in a Community Reinvestment Area Agreement as outlined in R.C. Section 3735.671. The maximum exemption that may be negotiated in the Oak Grove II CRA is up to 15 years for up to 100% for construction of new commercial or industrial structures. If the newly constructed structure qualifies for an exemption, during the period of the exemption, the exempted percentage of the structure shall not be considered to be an improvement on the land on which it is located for the purpose of real property taxation.

The Mayor, the City Manager and the City Community Development Director, or any one of them, are hereby authorized to give any and all notices on behalf of this Council that may be required by law, including, without limitation, those notices required by R.C. Sections 3735.671, 3537.673 and 5709.83, in connection with the consideration, approval or entering into of any agreements under R.C. Section 3735.671.

Section 4. Designation of Housing Officer. To administer and implement the provisions of this Resolution, the City Manager is designated as the Housing Officer as described in R.C. Sections 3735.65 to 3735.70.

Section 5. Application Fee. All projects are required to comply with the state application fee requirements of R.C. Section 3735.672(C). The City also may require a local annual monitoring fee of one percent of the amount of taxes exempted under an agreement provided there shall be a minimum local annual monitoring fee of \$500 and a maximum local annual monitoring fee of \$2,500.

Section 6. Housing Council and Licking County Tax Incentive Review Council. A "Community Reinvestment Area Housing Council" for the Oak Grove II CRA has been created. That Housing Council is composed of two members appointed by the Mayor, two members appointed by this Council and one member appointed by the City's Municipal Planning Commission. The majority of those members shall appoint two additional members who shall be residents of the City. Terms of the members of the Housing Council shall be three years. An unexpired term resulting from a vacancy in the Housing Council shall be filled in the same manner as the initial appointment was made. The Housing Council shall make an annual inspection of the properties within the Oak Grove II CRA for which an exemption has been granted under R.C. Section 3735.67. The Housing Council also shall also hear appeals under R.C. Section 3735.70.

The "Licking County Tax Incentive Review Council" was created pursuant to R.C. Section 5709.85. The Tax Incentive Review Council reviews annually the compliance of each agreement involving the granting of exemptions for commercial or industrial real property improvements under R.C. Section 3735.671 and make written recommendations to this Council as to continuing, modifying or terminating each agreement based upon the performance of each agreement.

Section 7. Resolution to be Forwarded and Published. The Housing Officer or the Housing Officer's designee is hereby authorized and directed to forward a copy of this Resolution to the Licking County Auditor and to publish a copy of this Resolution in a newspaper of general circulation in the City once per week for two consecutive weeks following its adoption.

Section 8. Authorization to Petition the Director of Development. The Housing Officer or the Housing Officer's designee is hereby authorized and directed, on behalf of the City, to petition the State Director of Development, in accordance with R.C. Section 3735.66, for confirmation of the Oak Grove II CRA.

Section 9. Open Meeting. The Council hereby finds and determines that all formal actions relative to the passage of this Resolution were taken in an open meeting of this Council and any of its committees and that all deliberations of this Council and of its committees that resulted in formal action were taken in meetings open to the public in full compliance with the applicable legal requirements, including R.C. Section 121.22.

Section 10. Effective Date. Pursuant to Article 6.07 of the New Albany Charter, this Resolution shall take effect upon adoption.

Section 11. 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:

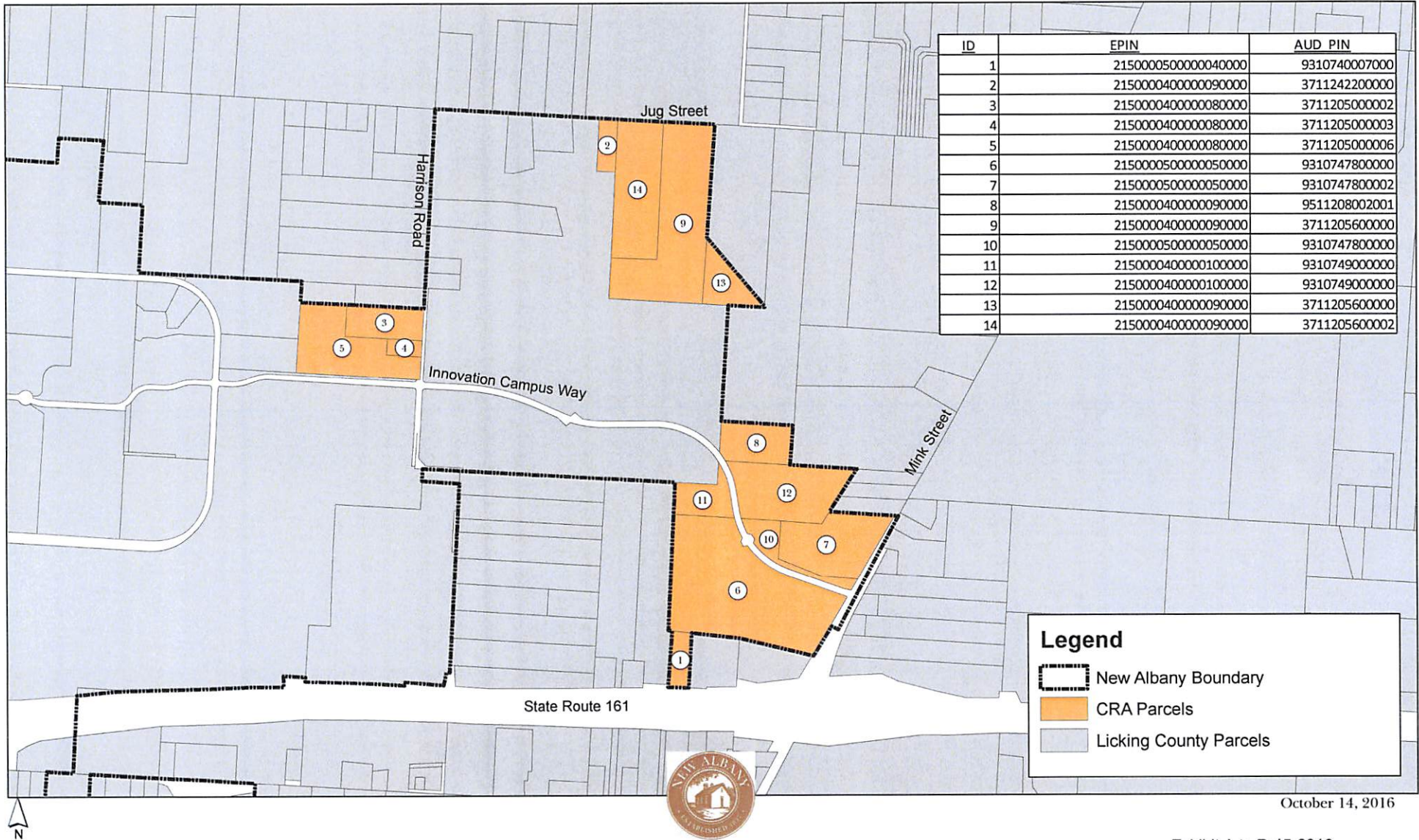
Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED



New Albany CRA Oak Grove II - Innovation Campus Way Extension to Mink
 City of New Albany, Ohio

Exhibit A to R-45-2016

October 14, 2016



Prepared: 10/14/2016
Introduced: 11/01/2016
Revised:
Adopted:
Effective:

RESOLUTION R-46-2016

A RESOLUTION TO AMEND THE OAK GROVE COMMUNITY REINVESTMENT AREA CONSISTING OF APPROXIMATELY 187.079 +/- ACRES, DESIGNATING A HOUSING OFFICER AND CREATING A COMMUNITY REINVESTMENT AREA HOUSING COUNCIL AND TAX INCENTIVE REVIEW COUNCIL AND TO EXPAND THE DESIGNATION OF THE OAK GROVE ECONOMIC OPPORTUNITY ZONE

WHEREAS, Council of the City of New Albany, Ohio (the "city") desires to pursue all reasonable and legitimate incentive measures to assist and encourage development in specific areas of the city that have not enjoyed sufficient reinvestment in new construction; and

WHEREAS, Council of the City of New Albany, by its Resolution No. R-29-98 adopted July 7, 1998, designated the Oak Grove Community Reinvestment Area (the "Oak Grove Area") and by R-28-99 adopted on May 18, 1999, O-23-2005 adopted September 20, 2005, O-24-2006 adopted June 20, 2006, O-39-2006 adopted on October 3, 2006, expanded the designation of the original area, which enables the city to offer real property tax exemptions on the construction of certain new structures and the remodeling of certain existing structures as described in Ohio Revised Code ("O.R.C.") Section 3735.67; and

WHEREAS, the city desires to promote commercial and industrial development in an area contiguous to the Oak Grove Area, which contiguous area includes approximately 187.079 +/- acres and which is described more completely on Exhibit A attached hereto (the "Oak Grove Expanded Area"); and

WHEREAS, the city believes that the redevelopment of the Oak Grove Area would encourage economic stability, maintain real property values and generate new employment opportunities and desires to designate the Oak Grove Area as a community reinvestment area pursuant to O.R.C. Sections 3735.65 to 3735.70; and

WHEREAS, as required by O.R.C. Section 3735.66, a survey of housing was prepared for the Oak Grove Expanded Area (the "survey"); and

WHEREAS, the survey shows the facts and conditions relating to existing housing and commercial structures and undeveloped land in the Oak Grove Expanded Area, including, among other things, evidence of deterioration and lack of new construction, or repair or rehabilitation, of structures in substantial portions of the Oak Grove Expanded Area; and

WHEREAS, the construction of new commercial or industrial structures in the Oak Grove Expanded Area would serve to encourage economic stability, maintain real property values and generate new employment opportunities; and

WHEREAS, the construction of new commercial or industrial structures in the Oak Grove Expanded Area constitutes a public purpose for which real property tax exemptions may be granted; and

WHEREAS, the city created an economic opportunity zone (the "Oak Grove EOZ") to encourage commercial and other business development in the city and now the city, to consistently preserve areas and zones, wishes to expand the Oak Grove EOZ in conjunction with the expansion of the Oak Grove CRA so that the two, when mapped, equate the same boundaries;

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

Section 1. Conditions in the Oak Grove Expanded Area. Based on the findings in the survey and on this council's own knowledge of the facts and conditions existing in the Oak Grove Expanded Area, this council hereby finds that the Oak Grove Expanded Area is one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.

Section 2. Creation of Oak Grove Expanded CRA. This council hereby designates the Oak Grove Expanded Area as a community reinvestment area (the "Oak Grove CRA") in accordance with R.C. Section 3735.66. Only new commercial and/or industrial structures consistent with the applicable zoning regulations within the Oak Grove CRA will be eligible for the exemptions provided for in Section 3 hereof. Residential remodeling or new structures, including, but not limited to, multi-family condominium or apartment structures or remodeling thereof, shall not be eligible for the exemptions granted in Section 3 hereof.

Section 3. Tax Exemptions in the Oak Grove CRA. Within the Oak Grove CRA, the percentage of the tax exemption on the increase in the assessed valuation resulting from improvements to commercial and industrial real property and the term of those exemptions shall be negotiated in advance of construction occurring according to the rules outlined in O.R.C. Section 3735.67. The city has the authority to negotiate, approve or deny any request for tax exemptions. The results of the negotiation as approved by council will be set forth in writing in a Community Reinvestment Area Agreement as outlined in R.C. Section 3735.671. The maximum exemption that may be negotiated in the Oak Grove CRA is up to 15 years for up to 100% for construction of new commercial or industrial structures. If the newly constructed structure qualifies for an exemption, during the period of the exemption, the exempted percentage of the structure shall not be considered to be an improvement on the land on which it is located for the purpose of real property taxation.

The mayor, the city manager and the city community development director, or any one of them, are hereby authorized to give any and all notices on behalf of this council that may be required by law, including, without limitation, those notices required by O.R.C. Sections 3735.671, 3537.673 and 5709.83, in connection with the consideration, approval or entering into of any agreements under O.R.C. Section 3735.671.

Section 4. Designation of Housing Officer. To administer and implement the provisions of this resolution, the city manager is designated as the Housing Officer as described in O.R.C. Sections 3735.65 to 3735.70.

Section 5. Application Fee. All projects are required to comply with the state application fee requirements of R.C. Section 3735.672(C). The city also may require a local annual monitoring fee of one

percent of the amount of taxes exempted under an agreement provided there shall be a minimum local annual monitoring fee of \$500 and a maximum local annual monitoring fee of \$2,500.

Section 6. Housing Council and Licking County Tax Incentive Review Council. A "Community Reinvestment Area Housing Council" for the Oak Grove CRA has been created. That Housing Council is composed of two members appointed by the Mayor, two members appointed by this council and one member appointed by the city's Municipal Planning Commission. The majority of those members shall appoint two additional members who shall be residents of the city. Terms of the members of the Housing Council shall be three years. An unexpired term resulting from a vacancy in the Housing Council shall be filled in the same manner as the initial appointment was made. The Housing Council shall make an annual inspection of the properties within the Oak Grove CRA for which an exemption has been granted under O.R.C. Section 3735.67. The Housing Council also shall also hear appeals under O.R.C. Section 3735.70.

The Tax Incentive Review Council reviews annually the compliance of each agreement involving the granting of exemptions for commercial or industrial real property improvements under O.R.C. Section 3735.671 and make written recommendations to this council as to continuing, modifying or terminating each agreement based upon the performance of each agreement.

Section 7. Resolution to be Forwarded and Published. The Housing Officer or the Housing Officer's designee is hereby authorized and directed to forward a copy of this resolution to the Licking County Auditor and to publish a copy of this resolution in a newspaper of general circulation in the city once per week for two consecutive weeks following its adoption.

Section 8. Authorization to Petition the Director of Development. The Housing Officer or the Housing Officer's designee is hereby authorized and directed, on behalf of the city, to petition the State Director of Development, in accordance with O.R.C. Section 3735.66, for confirmation of the Oak Grove CRA.

Section 9. Open Meeting. The council hereby finds and determines that all formal actions relative to the passage of this resolution were taken in an open meeting of this council and any of its committees and that all deliberations of this council and of its committees that resulted in formal action were taken in meetings open to the public in full compliance with the applicable legal requirements, including O.R.C. Section 121.22.

Section 10. Effective Date. Pursuant to Article 6.07 of the New Albany Charter, this resolution shall take effect upon adoption.

Section 11. 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:

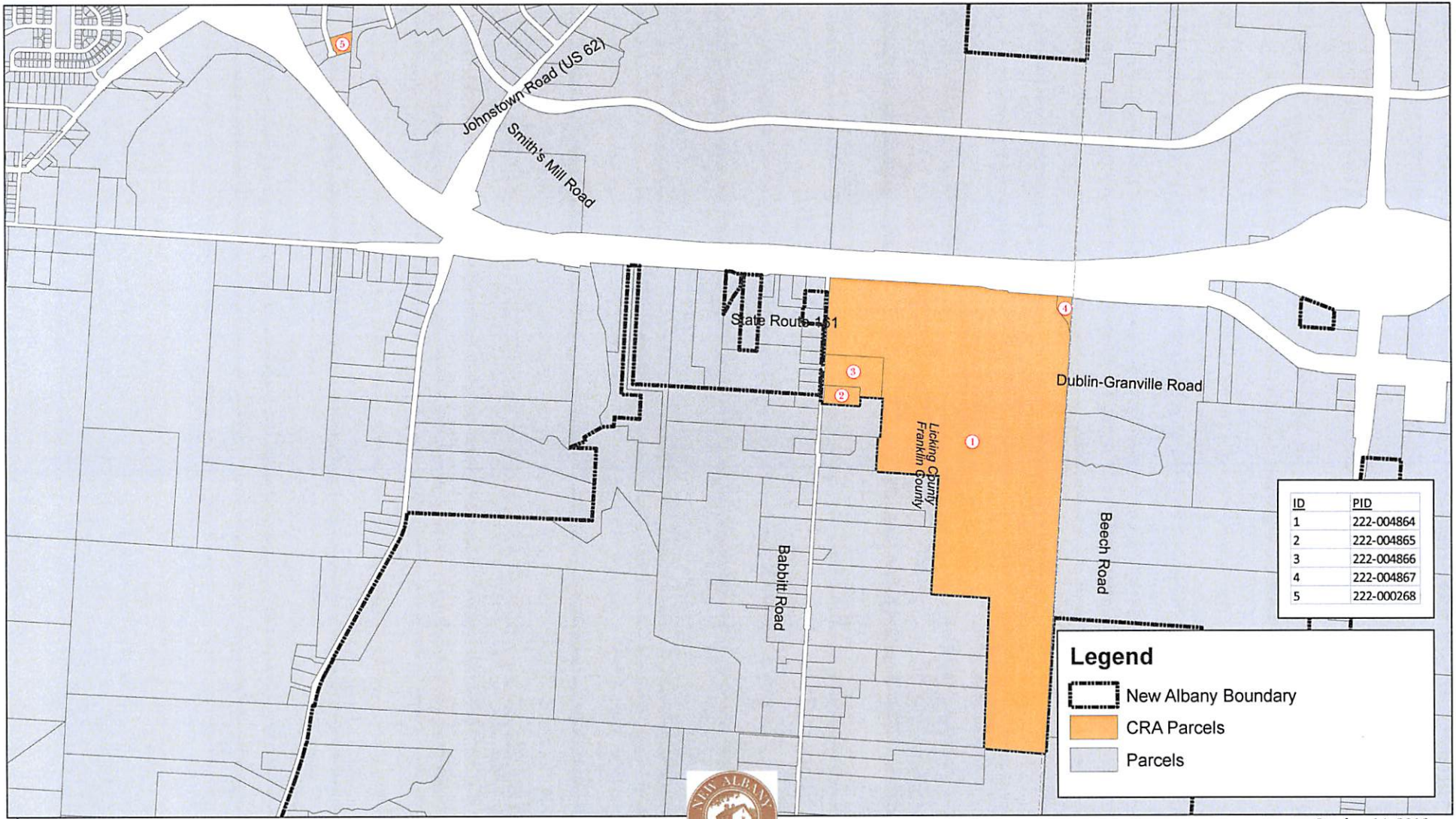
Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED



ID	PID
1	222-004864
2	222-004865
3	222-004866
4	222-004867
5	222-000268

Legend

- New Albany Boundary
- CRA Parcels
- Parcels



October 14, 2016

New Albany CRA Parcels - Winding Hollow
 City of New Albany, Ohio

Exhibit A to R-46-2016