



Prepared: 07/07/2017
Introduced: 07/18/2017
Revised:
Adopted:
Effective:

ORDINANCE O-10-2017

AN ORDINANCE FINDING THAT THE PROPOSED ADDITION AND DELETION OF LAND TO AND FROM THE NEW ALBANY EAST COMMUNITY AUTHORITY WILL BE CONDUCTIVE TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE AND WELFARE, AND WILL NOT JEOPARDIZE THE PLAN FOR THE DEVELOPMENT OF ITS "NEW COMMUNITY" AS DEFINED IN SECTION 349.01(A) OF THE OHIO REVISED CODE; REDEFINING THE BOUNDARY OF THE AUTHORITY'S COMMUNITY DISTRICT TO REFLECT THAT ADDITION AND DELETION OF LAND; AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Chapter 349 of the Ohio Revised Code, MBJ Holdings, LLC (the "Developer") filed a petition (the "Original Petition") with the Clerk of this Council and in the office of the Clerk of Licking County Board of Commissioners, both as then required by Chapter 349.03(A) of the Ohio Revised Code, with that Petition being for the establishment of The New Albany East Community Authority (the "Authority") and its proposed new community district comprised of approximately 742 acres (the "District"); and

WHEREAS, pursuant to Section 349.03 of the Ohio Revised Code, this City Council by its Resolution No. R-95-2014 adopted on December 2, 2014, as amended by its Resolution No. R-2-2015 adopted on January 6, 2015, accepted that Original Petition after determining it was sufficient and in compliance as to form and substance with the requirements of Section 349.03 of the Ohio Revised Code; and

WHEREAS, after a public hearing on that Original Petition, held after notice published in accordance with Section 349.03 of the Ohio Revised Code, this City Council by its Ordinance No. O-16-2015 passed on February 24, 2015, declared the Authority to be organized and a body politic and corporate with the boundaries of the Authority's new community district (the "Original District") defined as set forth in that Ordinance; and

WHEREAS, this Council continues to be the "organizational board of commissioners" for the Authority as that term is defined in Section 349.01(F) of the Ohio Revised Code, and this City continues to be the sole "proximate city" for the Authority as that term is defined in Section 349.01(M)(2) of the Ohio Revised Code; and

WHEREAS, pursuant to Chapter 349 of the Ohio Revised Code, MBJ Holdings, LLC (the "Developer") has filed an application to supplement that Original Petition (the "Supplemental Petition") with the Clerk of this Council as required by Section 349.03(A) of the Ohio Revised Code, to (i) add to the Authority's District additional land aggregating in amount approximately 141.979 acres and (ii) delete from the Authority's District land aggregating in amount approximately 35 acres, which Supplemental Petition was signed by the City Manager on behalf of the City as the sole "proximate city" pursuant to Sections 349.01 (M) and 349.03 of the Ohio Revised Code as authorized in Resolution No. R-28-2017 adopted by this Council on July 5, 2017; and

WHEREAS, the Supplemental Petition provides that with the proposed addition and deletion of land to and from the Authority's District the Authority will continue to be conducive to the public health, safety, convenience and welfare and intended to result in the development of a "new community" as that term is defined in Section 349.01(A) of the Ohio Revised Code, and that such additional land to be included in the District is owned by or under the control of the Developer within the meaning of Section 349.01(E) of the Ohio Revised Code; and

WHEREAS, this Council reviewed the Supplemental Petition and determined in its Resolution No. 28-2017 adopted July 5, 2017, that it complies with the requirements of Section 349.03 of the Ohio Revised Code as to form and substance; and

WHEREAS, this Council in its Resolution No. 28-2017 adopted July 5, 2017, fixed a time and place of a public hearing on the Supplemental Petition, being Tuesday, August 8, 2017, commencing at 9:00 a.m., in Council Chambers in Village Hall, which time is not less than 30 days nor more than 45 days from the date the Supplemental Petition was filed with the Clerk of this Council, and desires that notice of the public hearing be given, all pursuant to Section 349.03(A) of the Ohio Revised Code; and

WHEREAS, this Ordinance redefines the boundary of the Authority's District by adding 141.979 +/- acres of land to the District, all of which is located in the City of New Albany and the County of Licking; and

WHEREAS, this Ordinance further redefines the boundary of the Authority's District by deleting approximately 35 +/- acres of land from the District, all of which is located in the City of New Albany and the County of Licking; and

WHEREAS, The City of New Albany is the only "proximate city" for the Authority as that term is defined in Section 349.01(M) of the Ohio Revised Code; and

WHEREAS, this Ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and for the further reason that this Ordinance is required to be immediately effective in order to permit the immediate commencement of arrangements for the extension, development and financing of public infrastructure necessary to permit economic development to proceed in the Authority's District and the City.

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

Section 1. This Council finds and determines that the District, as its boundaries are redefined by this Ordinance, will be conducive to the public health, safety and convenience and welfare and the District, as so redefined, will not jeopardize the plan for the development of its "new community" as that term is defined in Section 349.01(A) of the Ohio Revised Code.

Section 2. The Supplemental Petition is hereby accepted and shall be recorded, along with this Ordinance, in the official minutes of this Council, as the organizational board of commissioners.

Section 3. The District is hereby redefined to include the approximate 141.979 +/- acres of land being added and to delete the approximately 35 +/- acres of land being deleted, all as set forth in the Supplemental Petition, and shall have boundaries reflecting that additional and deletion of land.

Section 4. 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 5. By reason of the emergency set forth in the preamble hereto, this Ordinance shall be in full force and effect immediately upon its passage by Council and approval by the Mayor.

CERTIFIED AS ADOPTED this _____ day of _____, 2017.

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 the Ordinance O-10-2017 were duly posted in accordance with Section 6.12 of the Charter of the City for at least 30 days starting on _____, 2017.

Jennifer Mason, Clerk of Council

Date



Prepared: 06/29/2017
Introduced: 07/18/2017
Revised:
Adopted:
Effective:

RESOLUTION R-29-2017

A RESOLUTION TO ACCEPT A 0.938 ACRE AND 2.171 ACRE TRACT OF LAND FROM MBJ HOLDINGS LLC FOR THE PURPOSE OF PUBLIC RIGHT OF WAY

WHEREAS, the tracts of land are generally located along the east side of Beech Road, south of Worthington Road and north of Morse Road; and

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

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

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

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

Section 1. The city manager is hereby authorized to accept a 0.938 acre and 2.171 acre donation of land from MBJ Holdings LLC for the purpose of public right of way as depicted on Exhibit A.

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

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

CERTIFIED AS ADOPTED this _____ day of _____, 2017.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

PROPOSED

Exhibit A - R-29-2017

2.171 ACRES

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Sections 16 and 25, Township 2, Range 15, United States Military Lands, being part of that 64.669 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200001120001313, part of that 36.583 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201108170015294, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202240003851, part of that 0.481 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201200001377, part of that 0.536 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201200001378, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201310002072, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202060002428, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201705300011209, part of that 0.086 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202030002370, part of that 5.001 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202030002370, part of that 0.4996 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201260001735, part of that 1.000 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201203080004951 and part of that 26.653 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202160003333, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

BEGINNING, at a 1/2" Iron Rod found at the intersection of the centerline of Beech Road (being 60' in width) and the common line of said Section 16 and Section 25, in the westerly line of said 5.001 acre tract, the southeasterly corner of that 2.365 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201502270003615 and the northeasterly corner of that 1.916 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201403040003839;

Thence North 03° 29' 09" East, with the westerly lines of said 5.001, 0.4996, 1.000 and 26.653 acre tracts, the easterly line of said 2.365 acre tract and that 2.636 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201401130000743, that 7.266 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201407310014405, that 7.284 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201407280014231, that 2.097 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201409030016934 and with the centerline of said Beech Road, a distance of 519.86 feet to a found Railroad Spike in the northwesterly corner of said 26.653 acre tract and the southwesterly corner of that 1.9733 acre tract conveyed to Eugene Hamilton by deed of record in Instrument Number 199803250009985;

Thence South 86° 30' 37" East, with the line common to said 1.9733 and 26.653 acre tracts, crossing Beech Road, a distance of 30.00 feet to a 3/4" Iron Pin found in the easterly right of way line of said Beech Road;

Thence South 03° 29' 09" West, crossing said 26.653, 1.000, 0.4996 and 5.001 acre tracts and with said easterly right of way line, (passing a 3/4" Iron Pin found at 362.38 feet) a total distance of 519.88 feet to an Iron Pin set in the line common to said Section 16 and Section 25;

Thence South 03° 34' 11" West, crossing said 5.001, 0.086, 0.5, 0.5, 0.5, 0.536, 0.481, 0.5, 36.583 and 64.669 acre tracts, with said easterly right of way line, a distance of 2632.27 feet to an Iron Pin set in the line common to said 64.669 acre tract and that 78.359 acre tract conveyed MBJ Holdings, LLC by deed of record in Instrument Number 200001250002500;

Thence North 86° 24' 51" West, with said common line and crossing said Beech Road, a distance of 30.00 feet to a MAG Nail set in the centerline of said Beech Road and a common corner of said 64.669, 78.359 acre tracts, that 30.204 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200201170002294 and that 9.820 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200208150030134;

2.171 ACRES

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Thence North 03° 34' 11" East, with the westerly lines of said 64.669, 36.583, 0.5, 0.481, 0.536, 0.5, 0.5, 0.5, 0.086 and 5.001 acre tracts, the easterly lines of said 30.204, 1.916 acre tracts, that 40.024 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201009130017863, that 14.000 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201301240002113 and that 13.973 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200201170002294, with said centerline, (passing a MAG Nail found at 1972.44 feet) a total distance of 2632.24 feet to the POINT OF BEGINNING containing 2.171 acre, more or less.

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

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

The bearings herein are based on Ohio State Plane Coordinate System, South Zone per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment. A bearing of North 03° 34' 11" East was held for a portion of the centerline of Beech Road.

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

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Edward J. Miller
Professional Surveyor No. 8250

Date

2.171 ACRES

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Sections 16 and 25, Township 2, Range 15, United States Military Lands, being part of that 64.669 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200001120001313, part of that 36.583 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201108170015294, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202240003851, part of that 0.481 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201200001377, part of that 0.536 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201200001378, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201310002072, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202060002428, part of that 0.5 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201705300011209, part of that 0.086 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202030002370, part of that 5.001 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202030002370, part of that 0.4996 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201201260001735, part of that 1.000 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201203080004951 and part of that 26.653 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201202160003333, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

BEGINNING, at a 1/2" Iron Rod found at the intersection of the centerline of Beech Road (being 60' in width) and the common line of said Section 16 and Section 25, in the westerly line of said 5.001 acre tract, the southeasterly corner of that 2.365 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201502270003615 and the northeasterly corner of that 1.916 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201403040003839;

Thence North 03° 29' 09" East, with the westerly lines of said 5.001, 0.4996, 1.000 and 26.653 acre tracts, the easterly line of said 2.365 acre tract and that 2.636 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201401130000743, that 7.266 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201407310014405, that 7.284 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201407280014231, that 2.097 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201409030016934 and with the centerline of said Beech Road, a distance of 519.86 feet to a found Railroad Spike in the northwesterly corner of said 26.653 acre tract and the southwesterly corner of that 1.9733 acre tract conveyed to Eugene Hamilton by deed of record in Instrument Number 199803250009985;

Thence South 86° 30' 37" East, with the line common to said 1.9733 and 26.653 acre tracts, crossing Beech Road, a distance of 30.00 feet to a 3/4" Iron Pin found in the easterly right of way line of said Beech Road;

Thence South 03° 29' 09" West, crossing said 26.653, 1.000, 0.4996 and 5.001 acre tracts and with said easterly right of way line, (passing a 3/4" Iron Pin found at 362.38 feet) a total distance of 519.88 feet to an Iron Pin set in the line common to said Section 16 and Section 25;

Thence South 03° 34' 11" West, crossing said 5.001, 0.086, 0.5, 0.5, 0.5, 0.536, 0.481, 0.5, 36.583 and 64.669 acre tracts, with said easterly right of way line, a distance of 2632.27 feet to an Iron Pin set in the line common to said 64.669 acre tract and that 78.359 acre tract conveyed MBJ Holdings, LLC by deed of record in Instrument Number 200001250002500;

Thence North 86° 24' 51" West, with said common line and crossing said Beech Road, a distance of 30.00 feet to a MAG Nail set in the centerline of said Beech Road and a common corner of said 64.669, 78.359 acre tracts, that 30.204 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200201170002294 and that 9.820 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200208150030134;

2.171 ACRES

-2-

Thence North 03° 34' 11" East, with the westerly lines of said 64.669, 36.583, 0.5, 0.481, 0.536, 0.5, 0.5, 0.5, 0.086 and 5.001 acre tracts, the easterly lines of said 30.204, 1.916 acre tracts, that 40.024 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201009130017863, that 14.000 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201301240002113 and that 13.973 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200201170002294, with said centerline, (passing a MAG Nail found at 1972.44 feet) a total distance of 2632.24 feet to the POINT OF BEGINNING containing 2.171 acre, more or less.

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

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

The bearings herein are based on Ohio State Plane Coordinate System, South Zone per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment. A bearing of North 03° 34' 11" East was held for a portion of the centerline of Beech Road.

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

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Edward J. Miller
Professional Surveyor No. 8250

Date



SURVEY OF ACREAGE PARCEL
SECTIONS 16 & 25, TOWNSHIP 2, RANGE 15
UNITED STATES MILITARY LANDS
CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: June 28, 2017

Job No: 2017-0556

Scale: 1" = 200'

- | | |
|--|---|
| (A) MBJ HOLDINGS, LLC
ONE-HALF AC
I.N. 201202240003851
APN: 094-109452-00.000
(0.427 AC.) | (G) MBJ HOLDINGS, LLC
0.4996 AC. (DEED)
I.N. 201201260001735
P.N. 094-108828-00.001
(0.379 AC.) |
| (B) MBJ HOLDINGS, LLC
0.481 AC
I.N. 201201200001377
APN: 094-109122-00.000
(0.427 AC.) | (H) MBJ HOLDINGS, LLC
1.000 AC. (DEED)
I.N. 201203080004951
P.N. 094-108828-00.000
(0.913 AC.) |
| (C) MBJ HOLDINGS, LLC
0.536 AC
I.N. 201201200001378
APN: 094-108468-00.000
(0.478 AC.) | (I) MBJ HOLDINGS, LLC
26.653 AC. (DEED)
I.N. 201202160003333
P.N. 094-106914-00.002
(26.617 AC.) |
| (D) MBJ HOLDINGS, LLC
1/2 AC
I.N. 201201310002072
APN: 094-109446-00.000
(0.456 AC.) | (J) MBJ HOLDINGS, LLC
7.284 AC. (DEED)
I.N. 201407280014231 |
| (E) MBJ HOLDINGS, LLC
ONE-HALF AC
I.N. 201202060002428
APN: 094-107622-00.000
(0.478 AC.) | (K) MBJ HOLDINGS, LLC
7.266 AC. (DEED)
I.N. 201407310014405 |
| (F) MBJ HOLDINGS, LLC
ONE HALF AC
I.N. 201705300011209
APN: 094-109302-00.000
(0.478 AC.) | (L) MBJ HOLDINGS, LLC
2.636 AC. (DEED)
I.N. 201401130000743 |

SURVEY NOTE:

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

BASIS OF BEARINGS:

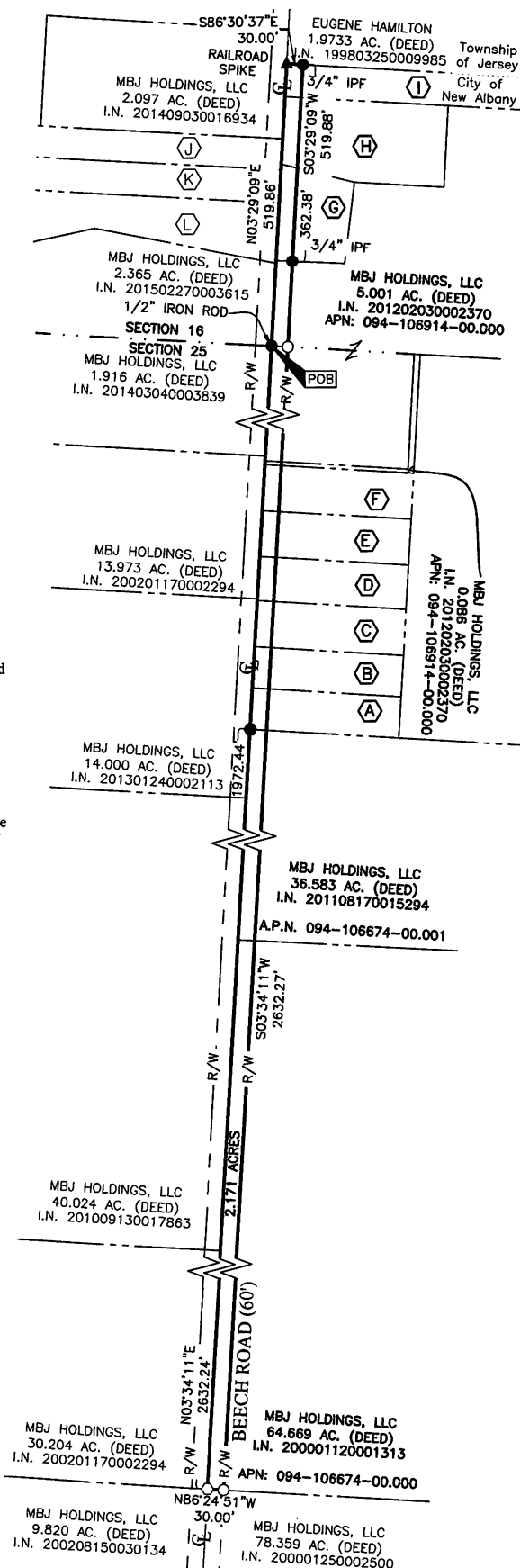
The bearings are based on the Ohio State Plane Coordinate System, South Zone per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment. A bearing of North 03° 34' 11" East was held for a portion of the centerline of Beech Road.

By _____
Edward J. Miller
Professional Surveyor No. 8250

Date _____

- = I.P. FND.
- = I.P. SET
- = MAG. NAIL FND.
- = MAG. NAIL SET
- ▲ = R.R. SPK. FND.

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



0.938 ACRE

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 16, Township 2, Range 15, United States Military Lands, being part of that 25.6217 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 201108050014459 and that 128.0 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 200002110004511 (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, at a MAG Nail set in the intersection of the centerline of Beech Road (60 feet in width) and the centerline of Morse Road;

Thence North 03° 34' 11" East, with the centerline of said Beech Road, a distance of 5257.28 feet to a 1/2" Iron Rod found;

Thence North 03° 29' 09" East, continuing with said centerline, a distance of 684.86 feet to a MAG nail set in the southwesterly corner of said 25.6217 acre tract, the northwesterly corner of that 1.9733 acre tract conveyed to Eugene Hamilton by deed of record in Instrument Number 199803250009985, the easterly line of that 9.378 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 201509140019689, being the TRUE POINT OF BEGINNING;

Thence North 03° 29' 09" East, with the westerly line of said 25.6217 acre tract, the easterly lines of said 9.378 acre tract, that 3.00 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 201407310014404 and continuing with said centerline, a distance of 281.00 feet to a MAG Nail set in the common corner of said 25.6217 and 128.0 acre tracts;

Thence North 02° 59' 27" East, with the common line of said 128.0 acre tract, that 57.212 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 200505200015068 and continuing with said centerline, a distance of 372.64 feet to MAG Nail set in the common corner of said 57.212 acre tract and that 4.019 acre tract conveyed to Terry L. Sutherland, Trustee and Kelly D. Sutherland, Trustee by deed of record in Instrument Number 200306160027035;

Thence North 03° 08' 02" East, with the westerly line of said 128.0 acre tract, the easterly lines of said 4.019 acre tract, that 1.0 acre tract conveyed to Terry L. Sutherland and Kelly D. Sutherland, Co-Trustees by deed of record in Instrument Number 200306160027034, that 51.478 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 201501140000751, and continuing with said centerline, a distance of 708.79 feet to MAG Nail set in said centerline, the common line of said 128.0 and 51.478 acre tracts;

Thence crossing said 128.0 and 25.6217 acre tracts, following courses and distance

South 86° 43' 42" East, crossing Beech Road, a distance of 30.00 feet to an Iron Pin set in the easterly right-of-way line of said beech road;

South 03° 08' 02" West, with said easterly right-of-way line, a distance of 708.68 feet to an Iron Pin set;

South 02° 59' 27" West, continuing with said easterly right-of-way line, a distance of 372.73 feet to a 3/4" Iron Pin found in the line common to said 25.6217 and 128.0 acre tracts; and

South 03° 29' 09" West, continuing with said easterly right-of-way line, a distance of 281.13 feet to a 3/4" Iron Pin found in the line common to said 25.6217 and 1.9833 acre tracts;

Thence North 86° 30' 23" West, crossing said Beech Road and with the line common to said 25.6217 and 1.9833 acre tracts, a distance of 30.00 feet to the TRUE POINT OF BEGINNING containing 0.938 acre, more or less.

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

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

0.938 ACRE

-2-

The bearings herein are based on the Ohio State Plane Coordinate System, South Zone per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment. A bearing of North 03° 34' 11" East was held for a portion of the centerline of Beech Road.

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

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Edward J. Miller
Professional Surveyor No. 8250

Date

EJM:anp
0_938 ac 20170556-VS-BNDY-02.doc



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

SURVEY OF ACREAGE PARCEL

SECTION 16, TOWNSHIP 2, RANGE 15

UNITED STATES MILITARY LANDS

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

Date: June 29th, 2017

Job No: 2017-0556

Scale: 1" = 100'

SURVEY NOTE:

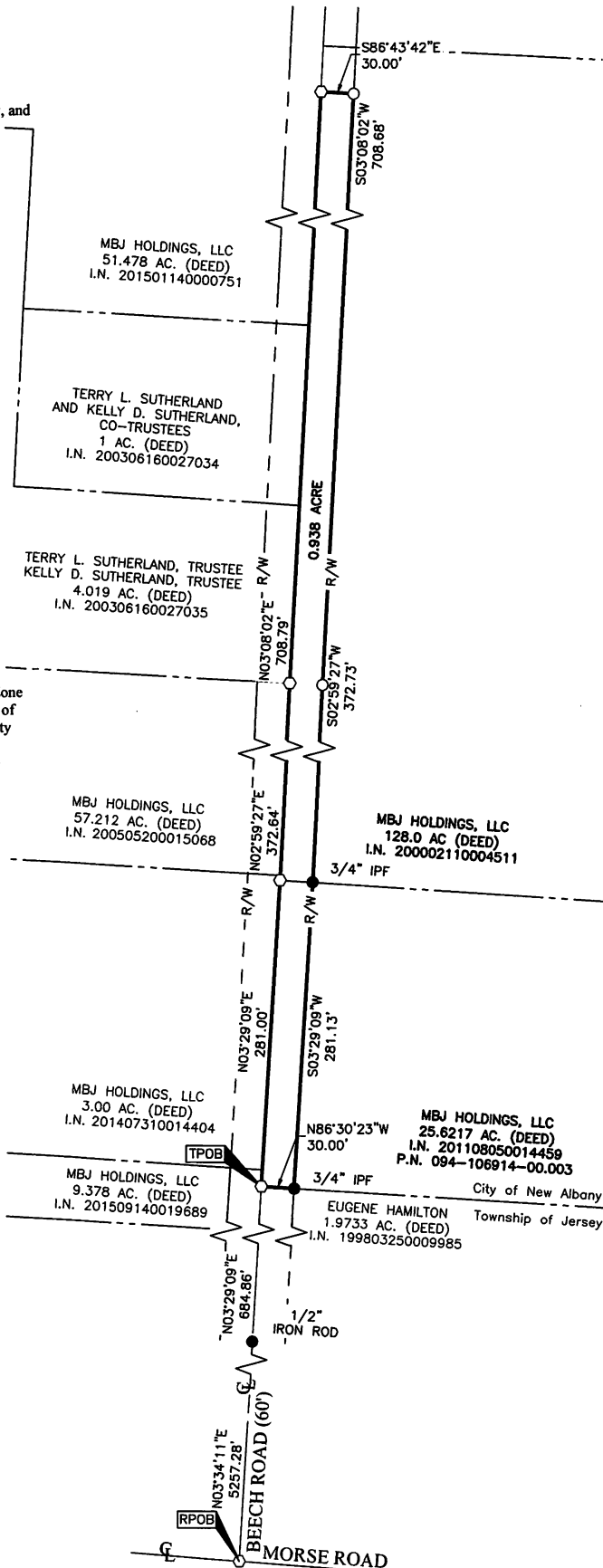
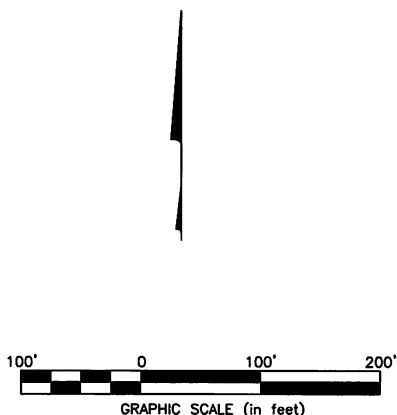
This survey was prepared using documents of record, prior plats of survey, and observed evidence located by an actual field survey.

- = I.P. FND.
- = I.P. SET
- = MAG. NAIL SET

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

BASIS OF BEARINGS:

The bearings are based on the Ohio State Plane Coordinate System, South Zone per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 80 and FRANK 180, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment. A bearing of North 03° 34' 11" East was held for a portion of the centerline of Beech Road.



By
Edward J. Miller
Professional Surveyor No. 8250

Date



Prepared: 06/29/2017
Introduced: 07/18/2017
Revised:
Adopted:
Effective:

RESOLUTION R-30-2017

A RESOLUTION TO AMEND A CONSERVATION EASEMENT GENERALLY LOCATED SOUTH OF WORTHINGTON ROAD AND EAST OF BEECH ROAD, INSTRUMENT NUMBER 201512310028457, TO PERMIT THE INSTALLATION OF UNDERGROUND ELECTRIC LINES

WHEREAS, a request has been made by MBJ Holdings to amend an existing conservation easement agreement from MBJ Holdings LLC to the city of New Albany in order to permit the installation of underground electric lines in portion of easement area located on the east side of Beech Road, south of Worthington Road; and

WHEREAS, the purpose of the original easement was for wetland and tree preservation, and

WHEREAS, a letter from the grantor has been provided that indicates that the methods by which the underground electric lines will be installed will not negatively impact the environmentally sensitive areas, and therefore still meet the intent and purpose of the existing easement; and

WHEREAS, city staff has reviewed and evaluated this request and have no objections; and

WHEREAS, council is satisfied that there is good cause for such amendment and that it will not be detrimental to the general interests and shall be approved, 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. That the conservation easement generally located south of Worthington Road and East of Beech Road, as identified as instrument number 201512310028457, is hereby amended in accordance with 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 resolution shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2017.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchefsky
Law Director

Exhibit A - R-30-2017

**FIRST AMENDMENT TO
CONSERVATION EASEMENT AGREEMENT**

This First Amendment to Conservation Easement Agreement (this “Amendment”) is made to be effective on the last date of signature below (the “Effective Date”), by and between **MBJ Holdings, LLC**, a Delaware limited liability company (“Grantor”), and the **City of New Albany**, a municipal corporation existing under the laws of the State of Ohio, having its address at 99 W. Main Street, New Albany, Ohio 43054 (“Grantee”).

Prior Instrument

Reference: Instrument No. 201512310028457, Office of the Recorder of Licking County, Ohio

RECITALS:

WHEREAS, Grantor and Grantee are parties to that certain Conservation Easement Agreement which is of record with the Office of the Recorder of Licking County, Ohio as Instrument Number 201512310028457 (the “Conservation Easement Agreement”); and

WHEREAS, Grantor and Grantee desire to amend the Conservation Easement Agreement as provided in this Amendment in order to allow for the construction, installation, operation, maintenance, repair, removal, and replacement of underground electric transmission, distribution, and communication lines within a limited and defined portion of the real property that is burdened by the Conservation Easement Agreement.

NOW THEREFORE, in consideration of the promises and covenants detailed in the Conservation Easement Agreement and as described below, the sufficiency of which is hereby acknowledged, Grantor and Grantee agree as follows:

AGREEMENT:

1. **Defined Terms.** All capitalized terms which are used but not defined herein shall have the meanings given to them in the Conservation Easement Agreement.
2. **Correction of Subsection Lettering.** Grantor and Grantee acknowledge that Section 6 of the Conservation Easement Agreement mistakenly contains two subsections labeled as subsection 6.c. The second such subsection (entitled "Use of Property") is hereby revised to be labeled and referred to as subsection 6.d.
3. **Additional Permitted Use.** Grantor and Grantee hereby agree that the following provision shall be added as subsection 6.e of the Conservation Easement Agreement:

"e. **Underground Electric:** Grantor is permitted to grant an electric easement in favor of an electric service provider under that portion of the Conservation Easement Area extending westward for a width not to exceed 100 feet from the eastern boundary line of the Conservation Easement Area and extending to and through the northern and southern boundary lines of the Conservation Easement Area (said portion of the Conservation Easement Area to be referred to herein as the "Electric Easement Area" and is shown on the attached diagram). Any such electric easement shall be granted subject to all of the following: :

- i. The grantee of such electric easement shall be permitted to install, operate, maintain, repair, remove, and replace underground electric transmission, distribution, and communication lines and associated underground appurtenant equipment and fixtures (together, the "Permitted Electric Improvements") within the Electric Easement Area but shall be prohibited from installing and operating any overhead electric lines or aboveground associated appurtenant equipment, fixtures or any surface structures whatsoever within the Electric Easement Area;;
- ii. The Permitted Electric Improvements shall be installed only by boring underground in a manner that does not disturb the surface of the ground or any vegetation located thereon within the Conservation Easement Area, and any future installation, removal, operation, maintenance, repair, or replacement of the Permitted Electric Improvements shall be subject to all of the items set forth in this Section 3, except as otherwise may be permitted pursuant to the terms of the Conservation Easement Agreement;
- iii. No electric transmission, distribution, or communication lines, appurtenant equipment, fixtures, or any structures whatsoever shall be permitted to be

installed or operated upon the surface of the ground within the Electric Easement Area or the Conservation Easement Area; and

iv. No equipment, materials, or personnel shall otherwise be permitted upon the surface of the ground of the Electric Easement Area or of the Conservation Easement Area.

4. Consent of Ohio EPA. Pursuant to the Conservation Easement Agreement, the Ohio EPA has provided its written consent to this Amendment. See Appendix 1 attached hereto and incorporated by reference herein.

5. No Other Amendments. Except as expressly provided in this Amendment, no other provisions of the Conservation Easement Agreement are being amended hereby.

[Remainder of page left blank intentionally. Signature pages follow].

IN WITNESS WHEREOF, Grantor and Grantee have executed this Amendment on the date(s) indicated immediately below their respective signatures.

GRANTOR:

MBJ HOLDINGS, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me, the undersigned Notary Public in and for said State and County, on this ____ day of _____, 2017, by _____, the _____ of MBJ Holdings, LLC, a Delaware limited liability company, on behalf of the limited liability company.

[Signature page of Grantee follows.]

GRANTEE:

CITY OF NEW ALBANY,
an Ohio municipal corporation

By: _____

Print Name: _____

Its: _____

Date: _____

Approved as to Form:

Mitchell Banchefsky, City Law Director

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me, the undersigned Notary Public in and for said State and County, on this ____ day of _____, 2017, by _____, the _____ of the City of New Albany, an Ohio municipal corporation, on behalf of the city.

Notary Public
My Commission Expires: _____

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

APPENDIX 1

[letter from Ohio EPA consenting to the Amendment]



Prepared: 06/29/2017
Introduced: 07/18/2017
Revised:
Adopted:
Effective:

RESOLUTION R-31-2017

A RESOLUTION TO APPROVE AND AUTHORIZE THE CITY MANAGER TO ENTER INTO AN ANNEXATION AGREEMENT WITH JERSEY TOWNSHIP

WHEREAS, the City of New Albany and Jersey Township share certain boundaries and therefore have a shared interest in the general area found adjacent to Beech Road, between State Route 161 on the north and Morse Road on the south, as illustrated in the exhibits of the attached Annexation Agreement (Exhibit A); and

WHEREAS, it is anticipated that real property comprised of 4 real estate parcels totaling approximately 9.5 acres (Annexation Parcels), will be the subject of an annexation petition or annexations petitions to be filed with the Jersey Township Commissioners soon after the effective date; and

WHEREAS, the city and the township desire to maintain a cooperative relationship that will foster economic development on the property and to provide for public infrastructure improvements that will serve the residents and property owners of the city and township; and

WHEREAS, the Ohio Revised Code Sections 709.021 and 709.022 establish provisions for the annexation of property that includes an annexation agreement between the city and the township; and

WHEREAS, in furtherance of this relationship, the city and the township desire to enter this agreement to memorialize the terms of their mutual agreement on the procedure under which future annexation(s) of the property to the city will occur in order to ensure that such annexation(s) are completed in accordance with the procedure that has been historically utilized by the city; and

WHEREAS, the city desires to work in good faith with the township in order to identify certain public infrastructure improvements that the city will construct and fund in the general vicinity of the property that will serve the residents and property owners in the township and the city.

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

Section 1. Council hereby approves and authorizes the city manager to enter into an annexation agreement with Jersey Township.

Section 2. This agreement shall cover and be applicable only to the property which is identified in Exhibit A, attached herein. The area/boundaries of the property to which this agreement applies shall not be reduced, enlarged, modified, or altered in any way except by written mutual agreement of the parties approved authorizing legislation from both the legislative authority of the township and the city. Any changes to the boundaries of the property shall require a written amendment to this agreement.

Section 3. On or after the effective date, all or part of the property shall, upon proper petition(s) to and with the approval of the Licking County Board of Commissioners and acceptance of the annexation by the city, be annexed to and accepted by the city under the conditions set forth in the annexation agreement.

Section 4. 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 5. Pursuant to Article 6.07 of the New Albany Charter, this resolution shall take effect upon adoption.

CERTIFIED AS ADOPTED this _____ day of _____, 2017

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Mitchell H. Banchevsky
Law Director