



Prepared: 07/18/2019  
Introduced: 08/06/2019  
Revised: 09/06/2019  
Adopted:  
Effective:

## ORDINANCE O-27-2019

### AN ORDINANCE TO AMEND THE ACCESSORY STRUCTURE REGULATIONS FOUND IN CHAPTER 1165 "GENERAL DEVELOPMENT STANDARDS", OF THE CITY OF NEW ALBANY, OHIO'S CODIFIED ORDINANCES

**WHEREAS**, city staff recently completed a comprehensive evaluation of accessory structure regulations in central Ohio communities after receiving numerous variance requests; and

**WHEREAS**, the accessory structure regulations found in Chapter 1165, General Development Standards, has not been updated since the adoption in 1990; and

**WHEREAS**, it has been found that the Codified Ordinances of the City of New Albany, Chapter 1165, needs to be amended to modernize the code to allow for design flexibility and appropriately scaled accessory structures; and

**WHEREAS**, the Planning Commission and Board of Zoning Appeals have expressed a desire to amend the codified ordinances of the City of New Albany to ensure the general development standards are consistent with generally accepted standards throughout central Ohio; and

**WHEREAS**, the Planning Commission received public input at two workshops and two public meetings in June 2019 and July 2019 for the proposed amendment to the Codified Ordinance; and

**WHEREAS**, the Planning Commission recommended approval of the proposed amendments to the Codified Ordinance at its meeting on July 15, 2019.

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

**Section 1.** That portions of Codified Ordinance Chapter 1165 "General Development Standards" be amended as set forth in Exhibit A, which depicts these amendments in red ink.

**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 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

PROPOSED

Exhibit A – O-27-2019

TITLE FIVE - ADDITIONAL ZONING REQUIREMENTS

CHAPTER 1165 - GENERAL DEVELOPMENT STANDARDS<sup>[28]</sup>

**Cross reference**— Gasoline service station defined - see P. & Z. 1105.02;

Home occupation defined - see P. & Z. 1105.02

**1165.01 –DEFINITIONS**

- a) "Accessory structure" shall be defined as a subordinate structure or surface, located on the same lot as a principal building/structure, which is incidental to the use of the principal building/structure. Accessory structure are categorized into two groups: Detached Structures or Recreational Amenities.
- b) "Architectural Features" are defined as cornices, canopies, eaves, pilasters, stairs, sills or other similar features.
- c) "Building Service Features" are defined as egress window pits, mechanical pits, mechanical units and generators, and similar features.
- d) "Deck" shall be defined as an accessory structure and is further defined as a horizontal platform supported by any combination of posts, beams, foundations, and/or joists with or without handrails, steps or terraces.
- e) "Detached Structures" are defined as detached garages, enclosed, accessory buildings larger than 200 square feet, pool houses, and other structures not considered to be Recreational Amenities located in a residentially zoned district.
- f) "Elevated surface" shall be defined as an artificial rise or elevation above the natural grade of the surrounding ground created with earth, rock, wood or other material.
- g) "Recreational Amenities" are defined as buildings which are 200 square feet or less. any sized deck, patio, fireplaces, pergolas, gazebo and similar located in a residentially zoned district.
- h) Side Yard shall be defined as the area measured from a side lot line to the required side yard setback line extending from the front lot line to the rear lot line.
- i) "Open Sided Structure" shall be defined as a free-standing, unheated structure unenclosed except for a structural system supporting a roof, and screen panels which may be used to enclose the open spaces between structural elements. An open-sided structure includes but may not be limited to a gazebo, tent, pergola, canopy or trellis.

**1165.02 BUILDING REQUIREMENTS.**

- a) Frontage Required. No building, structure, or improvement shall be constructed or altered unless its lot fronts on a publicly dedicated and improved street or thoroughfare within the Municipality.
- b) Front Yard Requirements. All front yard space shall be maintained in accordance with at least one of the following provisions:
  - 1. Landscaped by lawns, shrubbery, trees or other plantings. Such planting shall be maintained in a neat and orderly state.
  - 2. In all districts, driveways may be located in front yards; if needed in rear yards, rear yard access is permitted off of alleys. In districts where single-family residences are not a permitted use, front yard setbacks may also be used for parking areas, consistent with the regulations of Chapter 1167.
- c) Corner Lots. Lots fronting on more than one street shall provide the required front yard on both streets.
- d) Architectural Features Encroachment. May project into a setback no more than three (3) feet with a minimum of two (2) feet maintained to any adjoining lot line.
- e) Building Service Features Encroachment. May project into a setback no more than five (5) feet with a minimum of two (2) feet maintained to any adjoining lot line.
- f) Rural Setbacks. All buildings should respect the setbacks of all rural designated roads established in the Village's Strategic Plan.

1165.03 - HEIGHT.

Height regulations specified in the various zoning districts shall not apply to chimneys, tanks, cupolas, domes, spires, or similar structures attached provided that the height of all structures and buildings, including those mentioned above, shall not constitute a hazard to safe landing and take-off of aircraft from an established airport.

(Ord. 27-2007. Passed 8-21-07.)

1165.04 - ACCESSORY USES OR STRUCTURES.

- (a) Detached Structures. Shall comply with the following requirements:
  - (1) Area. For lots less than one acre, a structure may have an area up to 800 square feet; for lots between one acre and two acres, a structure may have an area up to 1,200 square feet, and for lots larger than 2 acres may have an area up to 1,600 square feet.
  - (2) Location.
    - A. Shall not project beyond any front elevation of the primary structure or located within the front yard;

- B. Shall be located at least ten (10) feet from the primary structure and any other detached accessory structures situated on the same lot; and
  - C. Shall not be located within an easement.
  - D. Shall be located ten (10) feet from any side lot line.
  - E. Shall be located thirty (30) feet from any rear lot line.
- (3) Height. Shall not exceed the height of the primary structure and in no case shall exceed twenty-five (25) feet in height.
- (4) Materials. All finished roof surfaces, except for flat roofs, shall be metal, seal-tab asphalt shingles, slate or wood shingles. All other finished surfaces must be complementary to the primary structure and be wood, brick, **composite siding**, or any combination thereof.
- (5) Number. Only two detached accessory structures shall be permitted as regulated by this section. Recreational Amenities are exempt from the number limitation in this section.
- (6) Lot Coverage. All detached structures shall follow the lot coverage requirements found in the property's PUD or residential zoning district. R-1 zoned districts shall have a maximum 20% lot coverage for accessory structures.
- (7) No detached accessory structure shall be erected or constructed prior to the erection or construction of the principal or main building, except in conjunction with the same.
- (8) Drainage Improvements: Additional drainage improvements and or direct connections to the storm sewer system may be required, subject to the approval of the City Manager or designee.
- (b) Recreational Amenities. Shall comply with the following requirements:
- (1) Materials. All finished roof surfaces, except for flat roofs, shall be metal, seal-tab asphalt shingles, and slate or wood shingles. All other finished surfaces must be wood, brick, stone, composite siding, screen, or any combination thereof.
  - (2) Lighting: Illumination of the open-sided structure exterior is prohibited. Illumination within the structure shall not exceed seventy (70) foot-candles measured at a horizontal plane three (3) feet above the finished floor.
  - (3) Location.
    - A. Shall not project beyond any front elevation of the primary structure or located within the front yard except an open, uncovered porch/paved terrace may project into the required front yard for distance of no greater than fourteen (14) feet.
    - B. Shall not be located within an easement.

C. Shall not be located nearer to any side or rear property line than ten feet (10'), except uncovered porch/paved terrace may be located up to five (5) feet away from any side or rear property line.

(4) Height. All Recreational Amenities are limited to one (1) story; and the height to the top of the highest roof ridge beam, or to the highest point of any other roof form, from the finished floor shall not exceed fifteen (15) feet.

(5) No recreational amenities shall be erected or constructed prior to the erection or construction of the principal or main building, except in conjunction with the same.

(6) Additional Restrictions for Recreational Amenities.

(A) Deck Restrictions. Decks shall comply with the following requirements, in addition to the requirements above in 1165.04(b):

(1) The area below a deck which exceeds more than two (2) feet above grade at any point within six (6) feet of the deck's perimeter shall be screened;

(a) Second story decks, which are decks with a minimum of seven (7) feet of head-room from the ground to the deck, are exempt from this requirement.

(2) Decks which encroach into the required rear yard shall have no walls or roof planes, or permanently attached benches, seats, or other structures of any kind, weatherproof or not, except a guardrail which may be up to forty-two (42) inches in height above the top of the deck. The handgrip portion of the rail shall not be more than three and one-half (3 and 1/2) inches in width, if the handgrip is flat.

(3) All decks shall be attached or contiguous to the principal structure or principal building;

(B) Open-Sided Structure Restrictions. An open-sided structure must meet the following minimum design criteria, in addition to the requirements above in 1165.04(b):

(1) Measurement: The area of all open-sided structures shall be measured post-to-post.

(2) Grading: If the open-sided structure is built on a mound, deck, or other elevated surface, the height of this elevated surface at its highest point above grade shall be added to the height of the structure to determine the overall height of the open-sided structure measured.

(3) Lot Coverage. All open sided structures shall be subject to and included in the lot coverage requirements found in the property's PUD or residential zoning district. R-1 zoned districts shall have a maximum 20% lot coverage for accessory structures.

(C) Drainage Improvements: Additional drainage improvements and or direct connections to the storm sewer system may be required, subject to the approval of the City Manager or

designee, if more than 50% of the rear yard buildable area is occupied by Recreational Amenities. For the purposes of this section rear yard buildable area is defined as the interior lot area bounded by the rear yard setback line, the side yard setback lines, and rear of the principle structure.

#### 1165.05 - MINIMUM FLOOR AREA REQUIREMENTS.

No single-family residential dwelling shall have floor area of less than one thousand two hundred (1,200) square feet. No two-family dwelling shall have floor area of less than eight hundred fifty (850) square feet for each family. No multiple family dwelling shall have a floor area of less than eight hundred (800) square feet for each family.

(Ord. 72-92. Passed 12-15-92; Ord. 27-2007. Passed 8-21-07.)

#### 1165.06 - CONNECTIVITY.

The following regulations shall apply to all new development. For the purposes of this section, "new development" shall be any construction involving the replacement of an existing primary structure, construction on a site currently without a primary building or when a commercial parking area is being repaved or constructed.

##### (a) Sidewalks.

- (1) Sidewalks are required along all public rights-of-way unless a leisure trail is required. The minimum sidewalk width shall be five (5) feet or greater as determined by the width of existing sidewalks.
- (2) Sidewalks shall be constructed per the Village standard and made of concrete, brick, stone, simulated stone, or simulated brick. The design and installation of sidewalk paving materials other than concrete shall be in accordance with manufacturer recommendations and are subject to Village Engineer and Community Development Department approval. Simulated materials shall correctly simulate appearance of brick or stone.

##### (b) Leisure Trails.

- (1) Leisure trails shall be constructed along streams and roads in accordance with the Village's Strategic Plan or as otherwise required.
- (2) Leisure trails shall be asphalt and have a minimum width of eight (8) feet unless otherwise specified by the Community Development Department. All leisure trails shall be constructed per the Village standard.

(c) Fees In-Lieu of Sidewalk and Trail Construction. Where special circumstances exist for sidewalk and trail construction as required in divisions (a) and (b) of this section, a fee in-lieu may be considered according to the procedure in Section 1187.18.

- (d) Where there are open spaces between buildings, excluding single-family and town homes, pedestrian connections shall be established between rear parking areas and the sidewalk in front of the building.

(Ord. 27-2007. Passed 8-21-07; Ord. 06-2009. Passed 3-17-09.)

#### 1165.07 - HOME OCCUPATIONS.

Home occupations or professions shall be regulated as permitted, accessory, or conditional uses pursuant to Chapters 1129 through 1139. A home occupation shall comply with the following standards:

- (a) The use shall be clearly incidental and secondary to residential use of the dwelling and not more than 15 percent (15%) of dwelling unit floor area is devoted to the home occupation.
- (b) The home occupation shall not generate greater traffic volume than is normal for a residential neighborhood.
- (c) Not more than one person, other than immediate family residing at the premises, shall be employed in such occupation.
- (d) External indication of such home occupation shall be limited to one non-illuminated sign, not more than two (2) square feet, attached flat against the structure.
- (e) The sale of products, stock, or commodities shall be limited to those produced on the premises.
- (f) Any need for parking generated by conduct of the home occupation shall meet off- street parking requirements of this Zoning Code, and shall not be located in any front yard.
- (g) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal sense off the lot, if the occupation is conducted in a single-family residence; or outside the dwelling unit if conducted in other than a single-family residence.
- (h) No home occupation shall be conducted from any accessory building on the lot.

In particular, a home occupation shall consist primarily of rendering specific personal services, such as those performed by a seamstress, member of the clergy, physician, dentist, lawyer, engineer, architect, accountant, artist, or private teacher. The home occupation shall be performed by the occupant of the premises and shall include employment of not more than one non-resident of the premises.

(Ord. 27-2007. Passed 8-21-07.)

#### 1165.08 - GASOLINE SERVICE STATION.

Gasoline service stations, or retail establishments selling gasoline as an ancillary activity, are listed as conditional and permitted uses in the C-1, C-2, and C-3 zoning districts. In addition to the requirements of the district in which the gasoline service station is located, and other provisions of this Chapter, such establishments shall be subject to the following requirements:

- (a) Minimum Lot Size. Twenty thousand (20,000) square feet.

- (b) Minimum Building or Structure Size. The building shall have an enclosed area of not less than eight hundred (800) square feet if any service is offered on or from the premises other than the delivery of gasoline, diesel fuel or oil for use as vehicle fuel or lubrication. If a gasoline service station offers no service other than the delivery of gasoline, diesel fuel or oil into vehicles, the enclosed area of the building shall not be less than six hundred (600) square feet. No such limited gasoline service station may offer to provide lubrication, oil changes, repairs, or other equipment installation.
- (c) Minimum Frontage. The lot on which a gasoline service station is located shall have frontage of not less than one hundred fifty (150) feet along a dedicated and improved street designated as not less than minor arterial status on the New Albany Thoroughfare Plan. If a gasoline service station is located on the corner of two (2) or more intersection streets, it shall have one hundred fifty (150) feet of frontage on each intersecting streets.
- (d) Location. No gasoline service station shall be located on any lot within two hundred (200) feet of any zoning district where residences are permitted.
- (e) Setbacks. The pump island setback in a gasoline service station, which shall be the minimum location for pumps dispensing fuel or oil products, shall be forty (40) feet from any right-of-way of any street, and forty (40) feet from any adjoining property line. Any building located on such premises shall be located not less than fifty (50) feet from the right-of-way of any street.
- (f) Driveways and Parking Areas. Driveways and parking areas shall be paved and properly drained. The landscaping of areas along the perimeter of the lot is required, pursuant to Chapter 1171.
- (g) Parking. Gasoline service stations shall be subject to the parking and loading provisions of Chapter 1167. In addition, no inoperable or damaged motor vehicle shall be parked outside a gasoline service station building in excess of seventy-two (72) hours. Parking areas shall be located not closer than five (5) feet to the main building.
- (h) Outside Storage. Outside storage shall be in accordance with the following requirements:
  - (1) All vending machines, except ice machines and telephone booths, shall be located inside the main building.
  - (2) Only one permanent or one portable display rack for oil, antifreeze, or other automotive products shall be permitted on each pump island. No such rack shall be located closer than twenty-five (25) feet to the street right-of-way line or adjoining property line. All other displays or merchandise outside the main building is prohibited.
  - (3) All hydraulic hoists, oil pits, lubricants and greasing, and other repair equipment shall be enclosed completely within the main building.
- (i) Signs. All signs used in connection with gasoline service stations shall be in conformance with the regulations for general retail and commercial uses as specified in Chapter 1169.

(Ord. 27-2007. Passed 8-21-07.)

1165.09 - MODEL HOME STANDARDS.

Residential model homes and temporary lot sales offices are newly-constructed homes or temporary structures placed in a newly-constructed subdivision and used by a homebuilder or developer to display home styles and lot availability in a subdivision to promote the sale of new housing units. The model home or sales office may be staffed and furnished.

- (a) When making its decision to approve, disapprove or approve with conditions an application for a residential model home, the Planning Commission shall consider that the model home:
  - (1) Is appropriately located within the community and sited so that it is easily accessible without creating a nuisance or hazard to nearby properties.
  - (2) Is integrated into the residential character of the neighborhood with external lighting in conformity with customary residential lighting.
  - (3) Is approved with a limited duration which shall be determined by the Planning Commission after consultation with the applicant. Extensions of time may be granted by the Planning Commission, but decisions must be based on the same criteria as outlined in this section.
  - (4) Is identified by no more than one sign which shall be in compliance with regulations governing signage.
  - (5) Shall not be used as a general real estate brokerage office where the sale of properties not owned or previously owned wholly or in part by the applicant occurs.
- (b) The Planning Commission shall also consider and may set conditions on the following as part of its decision to allow a residential model home:
  - (1) Hours of operation.
  - (2) Number and types of employees; and maximum number of employees to be on the site at any one time.
  - (3) Provisions for parking for employees and customers.
  - (4) Size, lighting, content and location of signage (no internally lighted signage shall be permitted).
  - (5) Landscaping and screening.
  - (6) The use of temporary sales offices (i.e., manufactured homes, mobile homes or trailers) on the site of a newly constructed subdivision shall be discouraged.
- (c) In addition to the above-listed criteria for model homes, permission to occupy a temporary sales office for the purpose of home and lot sales within a newly constructed subdivision shall be granted only if the following conditions are met:
  - (1) Such facility is located on a main arterial roadway or highway.
  - (2) Such facility is substantially screened by the use of landscaping and/or mounding.

- (3) Such facility shall not create a nuisance to surrounding properties.
- (4) Such other conditions as the Planning Commission deems appropriate.
- (5) Sales offices in trailers or mobile homes are permitted for a duration of twelve (12) months. Users of such facilities may apply to the Planning Commission for an extension of an additional twelve (12) months.

(Ord. O-08-2011. Passed 5-17-11.)



Prepared: 08/23/2019  
Introduced: 09/03/2019  
Revised:  
Adopted:  
Effective:

## ORDINANCE O-32-2019

### AN ORDINANCE TO ACCEPT A 1.803 ACRE TRACT OF LAND ALONG JUG STREET AND A 1.156 ACRE TRACT OF LAND ALONG HARRISON ROAD FROM MBJ HOLDINGS, LLC FOR THE PURPOSE OF PUBLIC RIGHT OF WAY

**WHEREAS**, the tracts of land are located along the south side of Jug Street and the east side of Harrison Road; and

**WHEREAS**, the land parcels currently extend to the centerline of Jug Street and Harrison Road and have 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 lot and commented this dedication is appropriate; and

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

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

**Section 1.** The city manager is hereby authorized to accept a 1.803 acre tract of land and a 1.156 acre tract of land from MBJ Holdings LLC for the purpose of public right of way as described and depicted in 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 legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

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

CERTIFIED AS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**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 **MBJ HOLDINGS, LLC** a Delaware limited liability company (the “**Grantor**”), 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 real property more particularly described as follows:

**Property:** Those certain 1.803± and 1.156± acre tracts situated in the City of New Albany, County of Licking, and State of Ohio and being more particularly described on Exhibit A and Exhibit A-1 (the “**Property**”) and depicted on Exhibit B and Exhibit B-1, all of which are attached hereto and made a part hereof.

**Tax Parcel Numbers:** Portions of 095-112074-00.000, 095-112074-00.001, 095-112074-00.003, 095-112422-00.000, 095-112056-00.002, 095-112056-00.000, 095-112074-00.004, 095-112632-00.000 and 095-112626-00.000.

**Prior Instrument References:** Instrument Numbers 201506300013332, 201506300013333, 201508210017779, 201508210017780, 201601200001024, 201601120000601, 201510300023659, 201604050006496 and 201602110002644, all of the Recorder’s Office, Licking County, Ohio.

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

The conveyance made hereunder is subject to all covenants, conditions, easements, restrictions, reservations, and other matters of record in the Office of the Recorder, Licking 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 to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**GRANTOR:**

**MBJ HOLDINGS, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OHIO                    )  
                                                  ) SS:  
COUNTY OF FRANKLIN        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, the \_\_\_\_\_ of MBJ HOLDINGS, LLC, a Delaware limited liability company, on behalf of the limited liability company.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

This instrument prepared by  
and after recording return to:  
MBJ Holdings, LLC  
8000 Walton Parkway, Suite 120  
New Albany, Ohio 43054  
(614) 939-8000

### 1.803 ACRES

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Farm Lot 15, Quarter Township 2, Township 2, Range 15, United States Military Lands, and being part of that 162.114 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201508210017779, that 3.150 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201601200001024, that 3.00 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201601120000601, that 2.008 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201510300023659, that 12.961 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201604050006495, and that 22.024 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201602110002644, (all references are to the records of the Recorder's Office, Licking County, Ohio) being more particularly described as follows:

Beginning, for reference, at a 5/8 inch rebar found at the centerline intersection of Jug Street Road with Harrison Road, at the northwesterly corner of that 1.156 acre tract conveyed to City of New Albany, Ohio by deed of record in Instrument Number \_\_\_\_\_, and being the common corner of said Farm Lot 15 and Farm Lots 14, 18 and 19 of said Quarter Township 2, Township 2, Range 15;

Thence South 86° 36' 02" East, with the centerline of said Jug Street Road, the northerly line of said 1.156 acre tract, and the line common to said Farm Lots 14 and 15, a distance of 30.00 feet to a magnetic nail set, being THE TRUE POINT OF BEGINNING;

Thence South 86° 36' 02" East, continuing with said centerline, the northerly line of said 162.114, 3.150, 3.00, 2.008, 12.961 and 22.024 acre tracts, and said common Farm Lot line, distance of 2617.83 feet to a magnetic nail set at the common corner of said 22.024 acre tract and that 22.453 acre tract conveyed to Nine Properties, Limited by deed of record in Instrument Number 200505250015574;

Thence South 04° 24' 16" West, across said Jug Street Road, with the line common to said 22.024 and 22.453 acre tracts, (passing a 5/8 inch rebar found at a distance of 23.06 feet) a total distance of 30.00 feet to an iron pin set in the southerly right-of-way line of said Jug Street Road;

Thence North 86° 36' 02" West, with the southerly right-of-way line of said Jug Street Road, across said 22.024, 12.961, 2.008, 3.00, 3.150 and 162.114 acre tracts, (passing a 5/8 inch rebar found capped "S.A. England" found at a distance of 485.19 feet (5.55 feet North), a 1/2 inch rebar capped "Vance 6553" found at a distance of 1343.92, and a 3/4 inch iron pipe capped "Vance 6553" found at a distance of 1723.85 and 1949.79 feet) a total distance of 2617.26 feet to an iron pin set at the intersection of the southerly right-of-way line of Jug Street Road with the easterly right-of-way line of said Harrison Road, being the easterly line of said 1.156 acre tract;

Thence North 03° 19' 26" East, across said Jug Street Road, with the easterly line of said 1.156 acre tract, a distance of 30.00 feet to the TRUE POINT OF BEGINNING, containing 1.803 acres, more or less, of which 1.803 acres are within the present right-of-way said Jug Street Road. Of said 1.803 acres, 0.635 acre is out of said 162.114 acre tract (A.P.N. 095-112074-00.000), 0.155 acre is out of said 3.150 acre tract (A.P.N. 095-112074-00.001), 0.262 acre is out of said 3.000 acre tract (A.P.N. 095-112074-00.003), 0.121 acre is out of said 2.008 acre tract (A.P.N. 095-112422-00.000), 0.296 acre is out of said 12.961 acre tract (A.P.N. 095-112056-00.002), and 0.334 acre is out of said 22.024 acre tract (A.P.N. 095-112056-00.000).

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

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

The bearings herein are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied

**1.156 ACRES**

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Farm Lot 15, Quarter Township 2, Township 2, Range 15, United States Military Lands, and being part of the remainder of that 162.114 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201508210017779, that 7.494 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201508210017780, that 1 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201506300013333, and that 1.028 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201506300013332, (all references are to the records of the Recorder's Office, Licking County, Ohio) being more particularly described as follows:

BEGINNING at a 5/8 inch rebar found at the centerline intersection of Jug Street Road with Harrison Road, being the northwesterly corner of said 162.114 acre tract, and the common corner of said Farm Lot 15 and Farm Lots 18, 19 and 14 of said Quarter Township 2, Township 2, Range 15;

Thence South 86° 36' 02" East, with the centerline of said Jug Street Road, the northerly line of said 162.114 acre tract, and the line common to said Farm Lots 14 and 15, a distance of 30.00 feet to a magnetic nail set;

Thence South 03° 19' 26" West, across said Jug Street Road, said 162.114, 7.494, 1 and 1.028 acre tracts, with the easterly right-of-way line of said Harrison Road, (passing a 5/8 inch iron pipe found at a distance of 1538.43 feet) a total distance of 1678.05 feet to an iron pin set at the northerly terminus of the easterly right-of-way line of said Harrison Road, as dedicated in Instrument Number 201609200020361, being a northwest corner of the remainder of said 162.114, in the line common to said Farm Lots 15 and 16, and in the southerly line of said 1.028 acre tract;

Thence North 86° 22' 07" West, across said Harrison Road, with the southerly line of said 1.028, the line common to said Farm Lots 15 and 16, a distance of 30.00 feet to a magnetic nail set at the southwesterly corner of said 1.028 acre tract, being in the centerline of said Harrison Road, and the easterly line said Farm Lot 18;

Thence North 03° 19' 26" East, with the centerline of Harrison Road, the easterly line of said 1.028, 1, 162.114 and 7.494 acre tracts, and the line common to said Farm Lots 15 and 18, a distance of 1677.93 feet to the POINT OF BEGINNING, containing 1.156 acres, more or less, of which 1.156 are within the present right-of-way of said Harrison Road. Of said 1.156 acres, 0.791 acre is out of said 162.114 acre tract (A.P.N. 095-112074-00.000), 0.173 acre is out of said 7.494 acre tract (A.P.N. 095-112074-00.004), 0.096 acre is out said 1 acre tract (A.P.N. 095-112626-00.000), and 0.096 acre is out said 1.028 acre tract (A.P.N. 095-112632-00.000).

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

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

The bearings herein are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of Franklin County Engineering monuments Frank 80 and Frank 180. The portion of the centerline of Beech Road, having a bearing of North 02° 57' 02" East, is designated the "basis of bearings" for this description.

This description is based on an actual field survey performed by or under the direct supervision of EMH&T, in June 2015.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King  
Professional Surveyor No. 8307

Date



EMHT  
 Evans, Mechwart, Hartzelstein & Tibbitts, Inc.  
 Engineers - Surveyors - Planners - Scientists  
 5000 New Albany Road, Columbus, OH 43224  
 Phone: 614.775.4323 Fax: 614.775.3448  
 emht.com

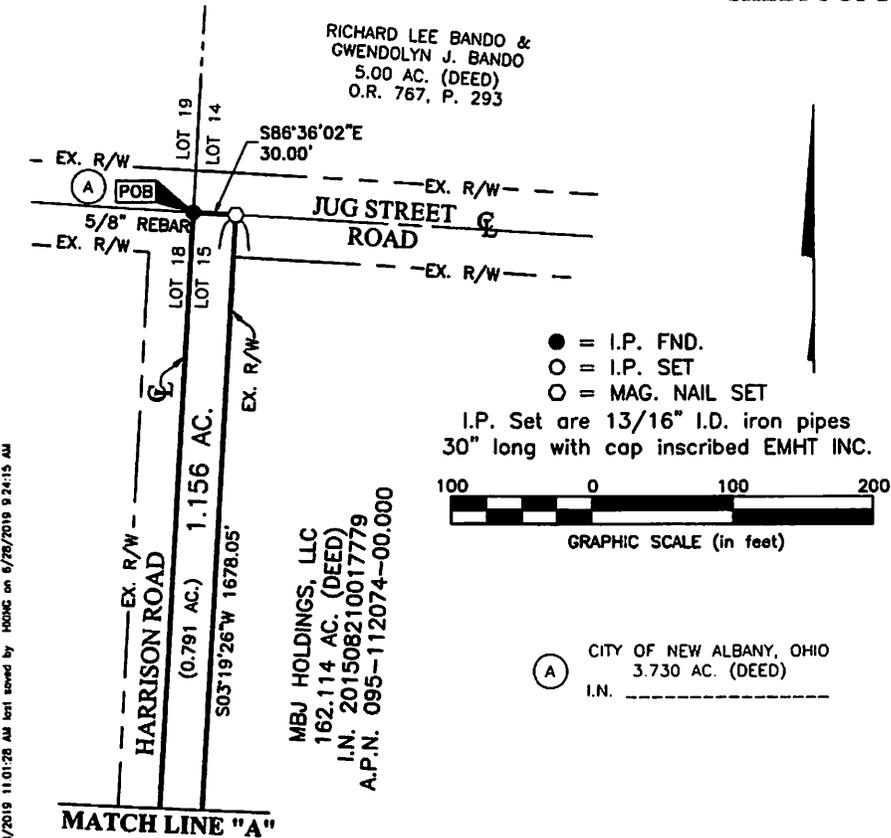
**SURVEY OF ACREAGE PARCEL**  
**FARM LOT 15, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15**  
**UNITED STATES MILITARY DISTRICT**  
**CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO**

Date: June 20, 2019

Job No: 2019-0001

Scale: 1" = 100'

SHEET 1 OF 2



J:\20190001\DWG\04SHEETS\BOUNDARY\20190001-04-DWG plotted by KING, HEATHER on 6/28/2019 11:01:28 AM last saved by KING on 6/28/2019 9:24:15 AM

**BASIS OF BEARINGS:**

The Bearings shown hereon are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of Franklin County Engineering monuments Frank 80 and Frank 180. The portion of the centerline of Beech Road, having a bearing of North 02° 57' 02" East, is designated the "basis of bearings" for this survey.

**SURVEY NOTE:**

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

By \_\_\_\_\_ Date \_\_\_\_\_  
 Heather L. King  
 Professional Surveyor No. 8307



Erma, Maschhoff, Henshler & Tiers, Inc.  
 Engineers - Surveyors - Planners - Architects  
 6850 New Albany Road, Columbus, OH 43234  
 Phone: 614.778.6350 Fax: 614.778.3448  
 emht.com

**SURVEY OF ACREAGE PARCEL**  
**FARM LOT 15, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15**  
**UNITED STATES MILITARY DISTRICT**  
**CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO**

Date: June 20, 2019

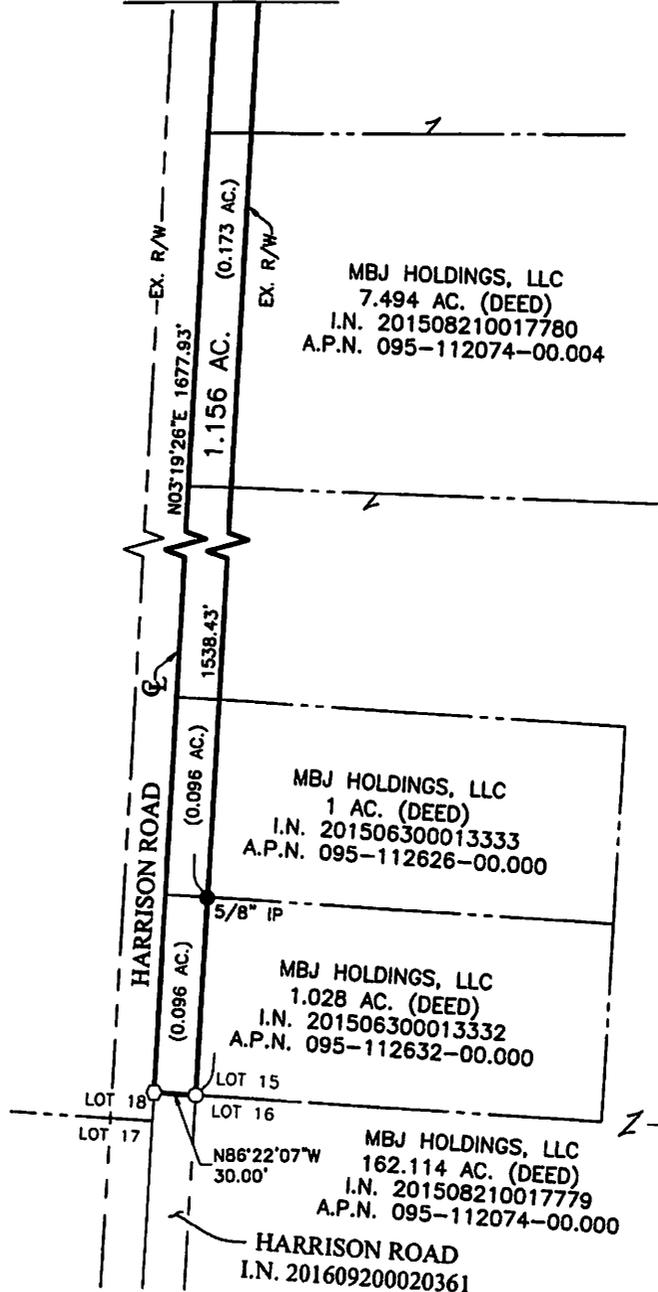
Job No: 2019-0001

Scale: 1" = 100'

SHEET 2 OF 2

MATCH LINE "A"

U:\2019\0001\DWG\045\SHEETS\BOUNDARY\20190001-45-0407-04.DWG plotted by KMG, HEATHER on 6/20/2019 11:01:29 AM text saved by HONG on 6/20/2019 9:24:15 AM  
 11/20/2019 11:01:29 AM



GRAPHIC SCALE (in feet)

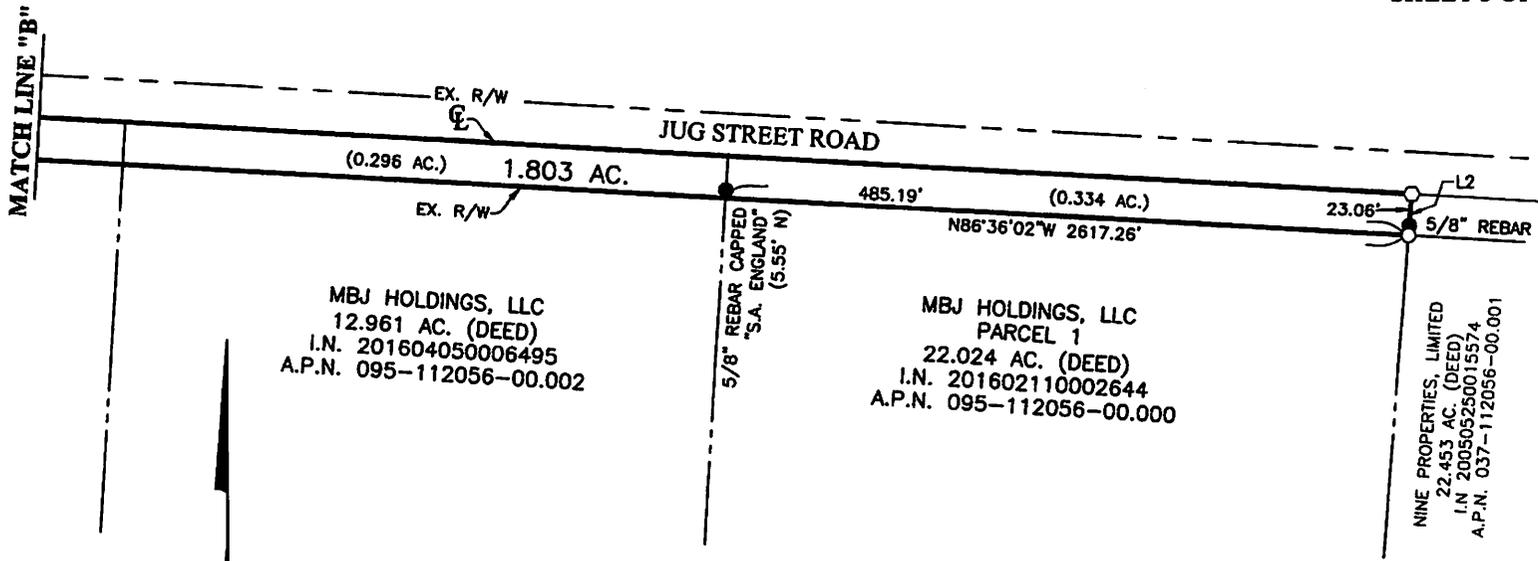


Evans, Mechwart, Hamilton & Tiron, Inc.  
 Engineers • Surveyors • Planners • Scientists  
 5500 New Albany Road, Columbus, OH 43254  
 Phone: 614.775.4500 Toll Free: 800.775.3642  
 emht.com

**SURVEY OF ACREAGE PARCEL**  
**FARM LOT 15, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15**  
**UNITED STATES MILITARY DISTRICT**  
**CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO**

Date: June 27, 2019  
 Scale: 1" = 100'  
 Job No: 2019-0001

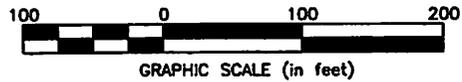
**SHEET 3 OF 3**



MBJ HOLDINGS, LLC  
 12.961 AC. (DEED)  
 I.N. 201604050006495  
 A.P.N. 095-112056-00.002

MBJ HOLDINGS, LLC  
 PARCEL 1  
 22.024 AC. (DEED)  
 I.N. 201602110002644  
 A.P.N. 095-112056-00.000

NINE PROPERTIES, LIMITED  
 22.453 AC. (DEED)  
 I.N. 200505250015574  
 A.P.N. 037-112056-00.001



GRAPHIC SCALE (in feet)

LINE TABLE		
LINE	BEARING	DISTANCE
L2	S04°24'16\"W	30.00'

J:\20190001\DWG\04SHEETS\BOUNDARY\20190001-VS-BNDY-03.DWG plotted by KING, HEATHER on 6/28/2019 11:01:08 AM last saved by HKING on 6/28/2019 9:20:47 AM



Evans, Machwart, Hambleton & Tibon, Inc.  
 Engineers - Surveyors - Planners - Scientists  
 5820 New Albany Road, Columbus, OH 43264  
 Phone: 614.775.4500 Toll Free: 888.775.3448  
 emht.com

# SURVEY OF ACREAGE PARCEL

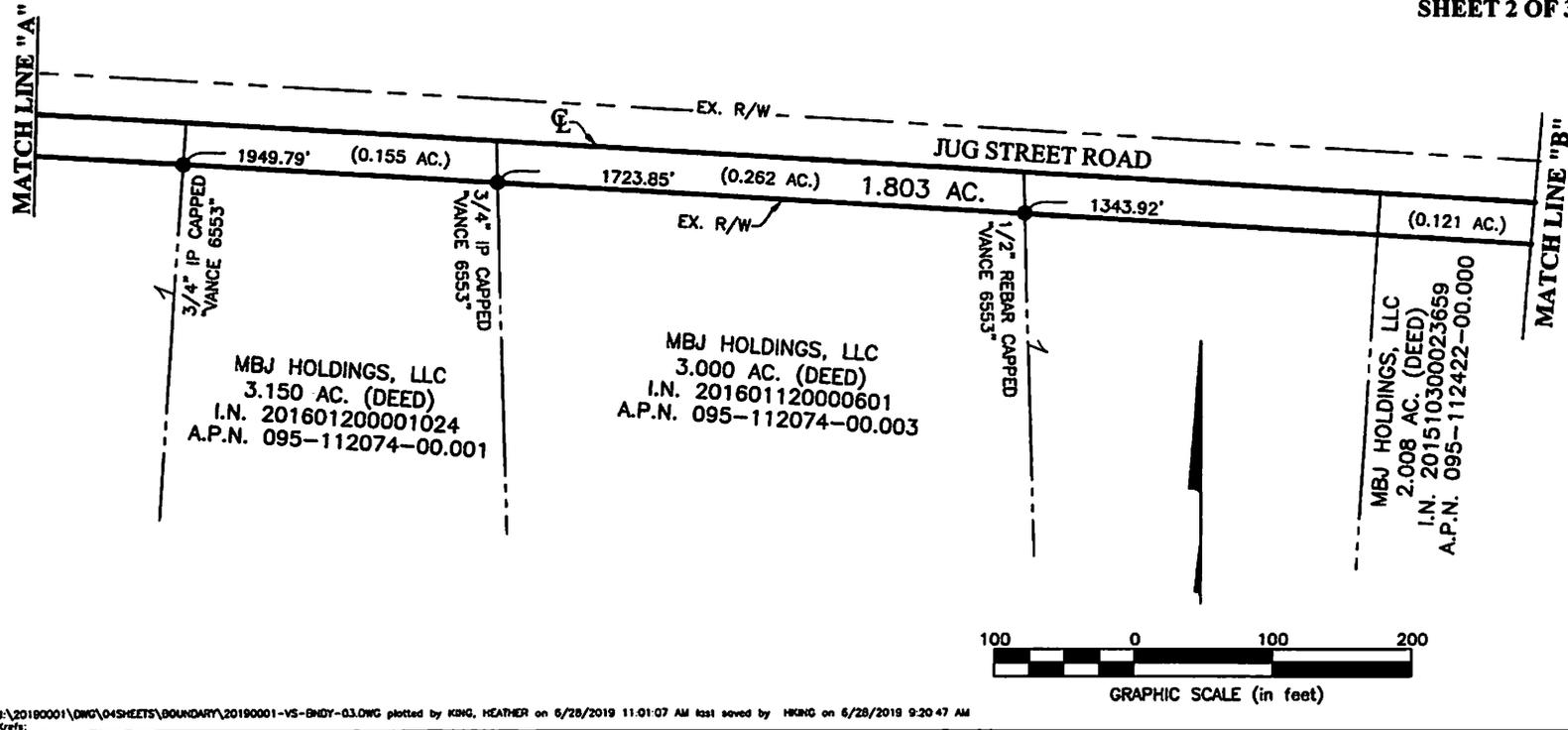
FARM LOT 15, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15  
 UNITED STATES MILITARY DISTRICT  
 CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: June 27, 2019

Scale: 1" = 100'

Job No: 2019-0001

SHEET 2 OF 3



J:\20190001\DWG\04SHEETS\BOUNDARY\20190001-VS-BNDY-03.DWG plotted by KING, HEATHER on 6/28/2019 11:01:07 AM last saved by KING on 6/28/2019 9:20:47 AM



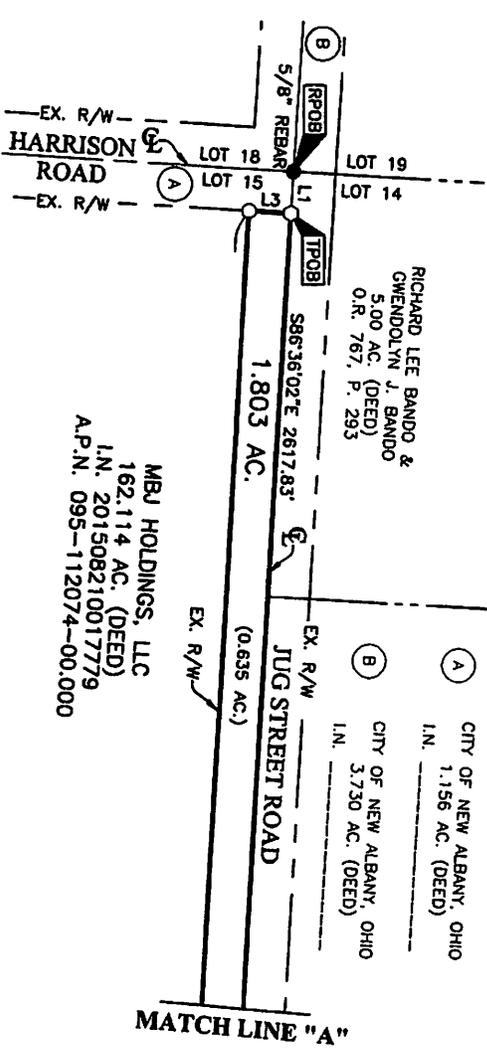
EMHT  
 Evert, Mochter, Hershberger & Focht, Inc.  
 Engineers • Surveyors • Planners • Scientists  
 2500 New Albany Road, Columbus, OH 43204  
 Phone 614/754-8200 Fax 614/754-8200

# SURVEY OF ACREAGE PARCEL

## FARM LOT 15, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15 UNITED STATES MILITARY DISTRICT CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: June 27, 2019  
 Scale: 1" = 100'  
 Job No: 2019-0001

SHEET 1 OF 3



LINE TABLE		
LINE	BEARING	DISTANCE
L1	$S86^{\circ}36'02''E$	30.00'
L3	$N03^{\circ}19'26''E$	30.00'

● = 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.

GRAPHIC SCALE (in feet)  
 0 100 200

**BASIS OF BEARINGS:**  
 The Bearings shown hereon are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of Franklin County Engineering monuments Frank 80 and Frank 180. The portion of the centerline of Beech Road, having a bearing of North  $02^{\circ} 57' 02''$  East, is designated the "basis of bearings" for this survey.

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

By Heather L. King Date \_\_\_\_\_  
 Professional Surveyor No. 8307

\\20190001\WORK\ASSETS\BOUNDARY\20190001-15-001-01.DWG plotted by kmc, reanna on 6/28/2019 11:01:07 AM last saved by kmc on 6/28/2019 9:20:17 AM



Prepared: 08/22/2019  
Introduced: 09/03/2019  
Revised:  
Adopted:  
Effective:

## ORDINANCE O-33-2019

### AN ORDINANCE TO ACCEPT A 51 +/- ACRE CONSERVATION EASEMENT AS REQUESTED BY MBJ HOLDINGS, LLC

**WHEREAS**, MBJ Holdings LLC has obtained permits from the Ohio EPA and U.S. Army Corps of Engineers that require the protection of certain wetlands and watercourses in the general vicinity of the city of New Albany; and,

**WHEREAS**, to protect these environmentally sensitive land areas, the permits require them to be encumbered within a conservation easement; and,

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

**WHEREAS**, the city will be the recipient (grantee) of conservation easements totaling 51 +/- acres; and,

**WHEREAS**, the city will benefit from this dedication of conservation easement.

**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 the conservation easement totaling 51 +/- acres as described and 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 legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

PROPOSED

Exhibit A

**CONSERVATION EASEMENT AGREEMENT**

This Conservation Easement Agreement ("Agreement") is made to be effective on the last date of signature below (the "Effective Date"), by and between **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").

Parcel Number: Licking County Auditor Parcel Nos. 095-111342-00.000, 095-111594-00.001, 095-111750-01.000, 095-111756-00.002, and 095-111756-00-000.

Prior Instrument References: Instrument Nos. 201902130002729, 201902080002507, 201811280025169, 201908020015818, and 201908020015819, Office of the Recorder of Licking County, Ohio

**RECITALS:**

**WHEREAS**, Grantor is the sole owner in fee simple of certain real property situated in Licking County, Ohio that is more particularly identified and described in Instrument Numbers 201902130002729, 201902080002507, 201811280025169, 201908020015818, and 201908020015819, which are of record with the Office of the Recorder of Licking County, Ohio (together, the "Property"); and

**WHEREAS**, Grantor intends, as the owner of the Property, to convey to Grantee the right to preserve and protect, in perpetuity, the conservation values of that limited portion of the Property that is more particularly described and depicted in Exhibit A, which is attached hereto and incorporated herein by reference (the "Conservation Easement Area"); and

**WHEREAS**, this Agreement and the Conservation Easement (as such term is defined below) created hereby is required by Individual Wetlands Permit No. DSW401196304 issued by the Ohio Environmental Protection Agency on \_\_\_\_\_, 2019 and by Individual Permit No. LHR-2018-686-SCR-Unnamed Tributary to Blacklick Creek dated \_\_\_\_\_, 2019 as issued by the U.S. Army Corps of Engineers. As a condition of these permits, preserved wetland areas must be protected by a conservation easement, and this Agreement is intended to satisfy this condition.

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

**AGREEMENT:**

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

2. **Term of Easement:** The Conservation Easement granted hereunder shall be perpetual to the extent permitted by law and shall have no expiration date.

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

4. **Prohibited Actions:** Any activity on or use of the Conservation Easement Area that is inconsistent with the purposes of the Conservation Easement or detrimental to the conservation values expressed herein is expressly prohibited. By way of example, and not of limitation, the following activities and uses are explicitly prohibited within the Conservation Easement Area:

- a. **Commercial Activities:** Commercial development or industrial activity;
- c. **Construction:** The placement or construction of any man-made modifications such as buildings, structures, fences, roads and parking lots;
- d. **Cutting of Vegetation:** Any cutting of trees, ground cover or vegetation, or destroying by any means of herbicides or pesticides, except as allowed under relevant permits or as necessary to maintain any recreational or vehicular trails or remove or control any invasive or noxious species;
- e. **Land Surface Alteration:** The removal of soil, sand, gravel, rock, minerals or other materials, or doing any act that would alter

the topography of the Conservation Easement Area except as allowed or required under the relevant permits;

- f. **Dumping:** The placement of waste, garbage and unsightly or offensive materials;
- g. **Water Courses:** Dredging, straightening, filling, channeling, impeding, diverting, or otherwise altering any natural water courses, streams and adjacent riparian buffers located within the Conservation Easement Area, except as allowed under the relevant permits;
- h. **Recreational Trails and Vehicles:** Recreational and vehicular uses that disturb or compact the soils or destroy or inhibit growth of vegetation are prohibited, except for vehicle use necessary to implement activities allowed or required under the relevant permits or to access and maintain the Conservation Easement Area;
- i. **Utilities:** The installation of new transmission lines for electric power, communications, natural gas or petroleum products, provided that utility lines may cross the Conservation Easement Area in an approximately parallel manner within that portion of the Conservation Easement Area located within 1,400 feet east of the right-of-way of Beech Road, together with any clearing necessary thereto, so long as the total width of any utility line crossings do not collectively exceed 400 lineal feet as measured east to west.
- j. **Other Activities:** Each and every other activity or construction project which endangers the natural, scenic, biological, or ecological integrity of the Conservation Easement Area.

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

- a. **Right to Enter:** Grantee has the right to enter upon the Conservation Easement Area at reasonable times to monitor or to enforce compliance with this Agreement, provided that such entry shall occur after prior reasonable notice is provided to Grantor. To the extent reasonably practicable, entry shall be made from a public right-of-way. Grantee may not enter upon or unreasonably interfere with the Grantor's use and quiet enjoyment of the Property. Grantee has no right to permit others to enter the Conservation Easement Area. The general public is not granted

access to the Conservation Easement Area or the Property under this Agreement.

- b. **Right to Preserve:** Grantee has the right to prevent any activity on or use of the Conservation Easement Area that is inconsistent with the terms or purposes of the Conservation Easement. However, nothing herein is intended to place any restrictions on the use or development of those portions of the Property located outside of the boundaries of the Conservation Easement Area.
- c. **Right to Require Restoration:** Grantee shall have the right to require the restoration of the areas or features of the Conservation Easement Area which are damaged by any activity inconsistent with the requirements of this Agreement. Grantee's rights under this paragraph shall include, and not be limited to, the right to initiate any proceedings and actions in law or equity as are necessary to enforce the terms of this Agreement or facilitate the restoration of the Conservation Easement Area.
- d. **Signs:** Grantee shall have the right to place signs within the Conservation Easement Area which identify the land as being protected by the Conservation Easement. The number, size and content of any such signs are subject to the Grantor's prior approval, which shall not be unreasonably delayed or withheld. Grantee reserves the right to post or clearly mark the boundaries of the Conservation Easement Area at mutually agreed upon locations within the Conservation Easement Area.
- e. **Assignment:** This Conservation Easement is transferable, but the Grantee may assign its rights and obligations under this Conservation Easement only to an organization or entity that is qualified to hold conservation easements under Ohio law, and any applicable federal tax law, at the time of transfer; and only to an organization that is approved by the Ohio EPA and US Army Corps of Engineers. Any transfer shall remain subject to the terms and conditions of this Conservation Easement and the subsequent easement holder shall be bound by the terms and conditions hereof, subject to amendment or termination as set forth herein.

Grantee agrees to give written notice to Grantor, Ohio EPA, and the US Army Corps of Engineers of the transfer of any interest at least 30 days prior to the date of such transfer. Grantee's notice

shall include the name, address, and telephone number of the transferee and a copy of this Conservation Easement.

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

- a. **Right to Convey:** Grantor retains the right to sell, mortgage, bequeath, donate or otherwise convey the Property, including, without limitation, the Conservation Easement Area. Any conveyance shall remain subject to the terms and conditions of this Agreement and the subsequent interest holder shall be bound by the terms and conditions hereof. Notwithstanding any conveyance of all or any portion of the Property, Grantor shall retain the right to enter upon the Conservation Easement Area as otherwise provided herein for the purpose of complying with the provisions of any applicable permits, provided that to the extent reasonably practicable such entry shall be made from other real property owned by Grantor or from a public right-of-way.

Grantor agrees to give written notice to Grantee, Ohio EPA, and the US Army Corps of Engineers of the conveyance of an interest in any portion of the Easement Area at least 30 days prior to the date of such conveyance. Grantee's notice shall include the name, address, and telephone number of the transferee and a copy of this Conservation Easement.

- b. **Right to Access:** Grantor shall retain the right to unimpeded access to the Conservation Easement Area, subject to the provisions of Section 6.a above.
- c. **Use of Property:** The portions of the Property located outside the boundaries of the Conservation Easement Area are not subject to the restrictions of the Conservation Easement created hereunder. Grantor shall be permitted to use and develop all portions of the Property located outside the boundaries of the Conservation Easement Area without restriction.

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

- a. **Delay in Enforcement:** A delay in enforcement shall not be construed as a waiver of Grantee's rights to enforce the terms of this Agreement.
- b. **Acts Beyond Grantor's Control:** Grantee may not bring an action against Grantor for modifications to the Conservation Easement Area which result from causes beyond Grantor's control. Examples include, without limitation, unintentional fires, storms, natural earth movement, trespassers or the Grantor's well-intentioned actions in response to an emergency which result in changes to the Conservation Easement Area. Grantor has no responsibility under this Agreement for such unintended modifications. Grantee may, however, bring an action against another party for modifications that impair the conservation values identified in this Agreement.
- c. **Notice and Demand:** If Grantee determines that a person or entity is in violation of the terms of the Conservation Easement or this Agreement, or that a violation is threatened, then it shall provide written notice via certified mail to such person or entity. The written notice shall identify the violation and request corrective action to cure the violation or restore the relevant real property.
- d. **Failure to Act:** If, for a thirty (30) day period after the date of written notice provided pursuant to subparagraph c. above, the person or entity continues violating the terms of the Conservation Easement or this Agreement, or if the person or entity does not abate the violation or begin to implement corrective measures within the foregoing thirty (30) day period requested by Grantee, or fails to continue diligently to cure such violation until finally cured, Grantee shall be permitted to bring an action in law or in equity to enforce the terms of the Conservation Easement or this Agreement and recover any damages for the loss of the conservation values protected hereunder. Grantee is also entitled to bring an action to enjoin the violation through injunctive relief, seek specific performance, declaratory relief, restitution, reimbursement of expenses or an order compelling restoration of the Conservation Easement Area. If a court determines that the person or entity has failed to comply with the terms of the Conservation Easement or this Agreement, then Grantee may seek an order requiring the person or entity to reimburse all reasonable costs and attorney fees incurred by Grantee in compelling such compliance.

- e. **Unreasonable Litigation:** If Grantee initiates litigation against the Grantor to enforce this Agreement, and if the court determines that the litigation was without reasonable cause or in bad faith, then Grantee is to reimburse the Grantor's reasonable costs and attorneys' fees incurred in defending the action.
- f. **Grantor's Absence:** If Grantee determines that the terms of the Conservation Easement or the Agreement is, or is expected to be, violated, then Grantee will make a good faith effort to notify Grantor. If, through reasonable efforts, Grantor cannot be notified, and if Grantee determines that emergency circumstances exist that justify prompt action to mitigate or prevent impairment of the Conservation Easement, then Grantee may pursue its lawful remedies without prior notice and without awaiting a response from Grantor.
- g. **Actual or Threatened Non-Compliance:** Grantor acknowledges that actual or threatened events of non-compliance under this Conservation Easement constitute immediate and irreparable harm. The Grantor acknowledges that Grantee's remedies at law for any violation of the terms hereof are inadequate and Grantee is entitled to injunctive relief, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or inadequacy of otherwise available legal remedies.
- h. **Cumulative Remedies:** The preceding remedies of Grantee are cumulative. Any, or all, of the remedies may be invoked by Grantee if there is an actual or threatened violation of this Agreement.

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

9. **Remediation:** If, at any time, there occurs, or has occurred, a release in, on, or about the Conservation Easement Area of any substance now or hereafter defined, listed, or otherwise classified, and in excess of any amount permitted pursuant to any federal, state, or local law, regulation, or requirement or in an amount that is hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or

threatening to human health or the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible therefor.

10. **Cessation of Existence:** If Grantee shall cease to be authorized to acquire and hold conservation easements, then this Agreement shall become vested in another qualified entity that is eligible to acquire and hold a conservation easement under Ohio law, upon the mutual consent of Grantor and the Ohio Environmental Protection Agency ("**Ohio EPA**"). Grantor agrees to execute and deliver such documents and instruments as may be necessary to properly reflect the substitution of the replacement Grantee hereunder.

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

12. **Recordation:** Grantor shall record this instrument in a timely fashion in the official records of Licking County, Ohio, and Grantee may re-record it at any time as may be required to preserve its rights in this Easement.

13. **Assignment:** This Agreement is transferable, but Grantee may assign its rights and obligations hereunder only to an organization mutually agreed to by the fee simple owner of the Property, Ohio EPA, and the transferee, provided that the organization is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended, (or any successor provision then applicable) and authorized to acquire and hold conservation easements under Ohio law. As a condition of such transfer, Grantee shall require that the transferee organization must agree in writing to assume all of Grantee's obligations and duties hereunder and under and to carry out the conservation purposes that this grant is intended to advance. Grantee agrees to give written notice to Grantor of a transfer or an assignment at least (20) days prior to the date of such transfer or assignment and to furnish promptly to Grantor an executed copy of the assignment and assumption agreement to be recorded by Grantee after the expiration of such 20-day notice period in the official records of Licking County, Ohio. The failure of Grantee to give such notice shall not affect the validity of this Agreement nor limit its enforceability in any way.

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

15. **Notices:** For purposes of this Agreement, notices may be provided to either party, by personal delivery or by mailing a written notice via certified mail, return receipt requested, to that party at the address shown at the outset of this Agreement, or at the last known address of a party. Notice is deemed given upon (i) personal delivery or (ii) two days after depositing the properly addressed notice with the U.S. Postal Service.

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

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

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

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

20. **"As Is" Condition:** Grantee has examined the Conservation Easement Area and agrees to accept the "as is" condition of the Property for purposes of this Agreement.

21. **Site Monitoring:** Grantee shall develop a site-monitoring program to ensure the terms of the easement are being upheld. The Conservation Easement Area shall be inspected by Grantee at a minimum of one time annually.

22. **No Merger:** The conservation easement provided under this Agreement is intended to facilitate the perpetual protection of the Conservation Easement Area as provided herein. No easement granted or enjoyed hereunder shall be eliminated through the doctrine of merger as the result of Grantee holding title and/or having ownership of the Conservation Easement Area.

*Remainder of this page intentionally blank – Signatures on following pages.*

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

**GRANTOR:**

**MBJ Holdings, LLC**, a Delaware limited liability company

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF OHIO  
COUNTY OF FRANKLIN

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, the \_\_\_\_\_ of **MBJ Holdings, LLC**, a Delaware limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public

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

**GRANTEE:**

**CITY OF NEW ALBANY, OHIO,**  
a municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF OHIO  
COUNTY OF FRANKLIN

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, the \_\_\_\_\_ of the **CITY OF NEW ALBANY, OHIO**, a municipal corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public

Approved as to Form:

\_\_\_\_\_  
Mitchell Banchefsky, City Law Director

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

## **EXHIBIT A**

### **CONSERVATION EASEMENT 50.949 ACRE**

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Farm Lots 20, 28 and 29, Quarter Township 2, Township 2, Range 15, United States Military Lands, being on, over, and across that the remainder of that 49 acre tract conveyed as Parcel II to MBJ Holdings, LLC by deed of record in Instrument Number 201902130002729, that 42.336 acre tract conveyed to the MBJ Holdings, LLC by deed of record in Instrument Number 201902080002507, that 27.014 acre tract conveyed as Parcel I to MBJ Holdings, LLC by deed of record in Instrument Number 201811280025169, and that 33.1900 acre tract conveyed as Parcel I and that 150.0000 acre tract conveyed as Parcel II to MBJ Holdings, LLC by deed of record in Instrument Number 201908020015818, (all references are to the records of the Recorder's Office, Franklin County, Ohio) being more particularly described as follows:

BEGINNING at an angle point in the easterly right-of-way line of Beech Road, being the common corner of the remainder of said 49 acre tract and that 4.932 acre tract conveyed to the City of New Albany, Ohio by deed of record in Instrument Number \_\_\_\_\_, and in the southerly line of that 50.000 acre tract conveyed as Tract 3, Parcel 1 to Hendren One, LLC by deed of record in Instrument Number 201304180009917;

Thence South 86° 28' 35" East, with the line common to said 49 and 50.000 acre tracts, a distance of 2704.13 feet to the westerly line of that 51.87 acre tract conveyed to Henry S. Cook and Joyce A. Cook, Co-Trustees by deed of record in Instrument Number 201212310031018, being in the line common to said Farm Lot 28 and Farm Lot 21 of said Quarter Township 2, Township 2, Range 15, United States Military Lands;

Thence South 03° 35' 30" West, with the line common to said 49 and 51.87 acre tracts, a distance of 847.14 feet to a point at the common corner of said 49, 51.87, 27.014 and 42.336 acre tracts, being the common corner of said Farm Lots 28, 21, 20 and 29;

Thence South 86° 39' 31" East, with the northerly line of said 27.014 and 33.1900 acre tracts, the southerly line of said 51.87 acre tract and that 53.979 acre tract conveyed to Mary L. Cook, Trustee by deed of record in Instrument Number 201212310031017, being the line common to said Farm Lots 20 and 21, a distance of 817.06 feet to a common corner of said 33.1900 and 150.0000 acre tracts;

Thence South 86° 45' 56" East, with the line common to said 150.0000 and 53.979 acre tracts, continuing with said common Farm Lot line, a distance of 175.75 feet to a point;

Thence across said 150.0000, 33.1900, 27.014, 42.336 and 49 acre tracts, the following courses and distances:

South 03° 19' 30" West, a distance of 426.23 feet to a point;  
North 86° 40' 30" West, a distance of 424.08 feet to a point;  
South 03° 19' 30" West, a distance of 360.09 feet to a point;  
North 85° 59' 43" West, a distance of 546.82 feet to a point;  
North 03° 19' 30" East, a distance of 680.97 feet to a point;  
North 86° 06' 26" West, a distance of 582.53 feet to a point;  
South 03° 19' 30" West, a distance of 196.49 feet to a point;  
North 85° 59' 43" West, a distance of 834.36 feet to a point;  
North 03° 19' 30" East, a distance of 1031.62 feet to a point; and

**CONSERVATION EASEMENT  
50.949 ACRES**

North 86° 28' 35" West, a distance of 1305.63 feet to a point in the easterly right-of-way line of said Beech Road, the line common to the remainder of said 49 acre tract and said 4.932 acre tract;

Thence North 03° 30' 21" East, with said easterly right-of-way line, said common line, a distance of 100.00 feet to the POINT OF BEGINNING, containing 50.949 acres, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

  
Heather L. King  
Professional Surveyor No. 8307

8/15/19  
Date

HLK: ap  
50\_949 ac 20190092-VS-ESMT-CONS-01.doc

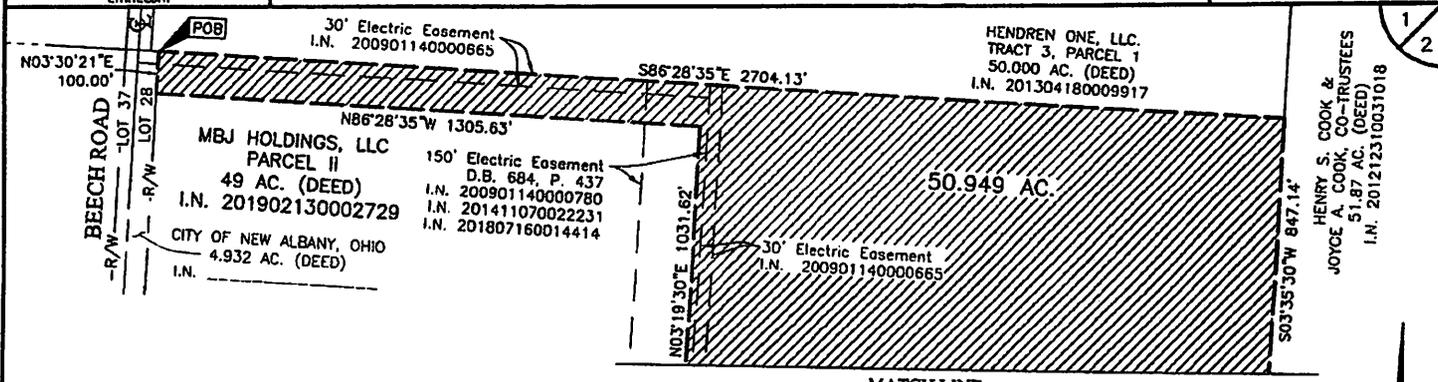


Evart, Mochwart, Hambleton & Titon, Inc.  
 Engineers • Surveyors • Planners • Scientists  
 5500 New Albany Road, Columbus, OH 43054  
 Phone: 614.775.4500 Toll Free: 888.775.3448  
 emht.com

# CONSERVATION EASEMENT

FARM LOTS 20, 28 & 29, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15  
 UNITED STATES MILITARY DISTRICT  
 CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

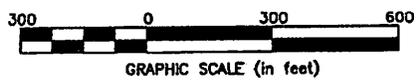
Date: August 15, 2019  
 Scale: 1" = 300'  
 Job No: 2019-0092



HENRY S. COOK &  
 JOYCE A. COOK, CO-TRUSTEES  
 51.87 AC. (DEED)  
 I.N. 201212310031018



By Heather L. King Date 8/15/19  
 Heather L. King  
 Professional Surveyor No. 8307

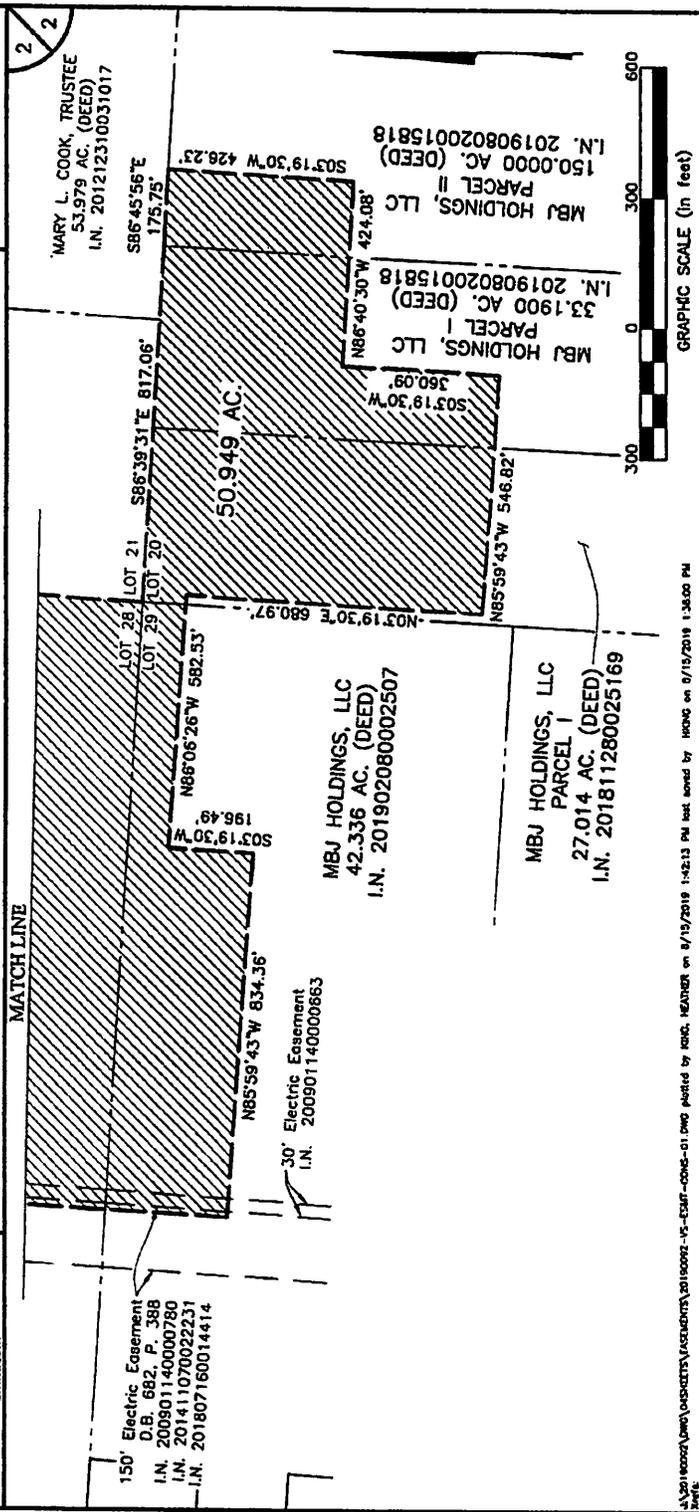


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**EMHT**  
 Evans, Meacham, Kambhakar & Tilton, Inc.  
 Engineers • Surveyors • Planners • Scientists  
 5500 New Albany Road, Columbus, OH 43054  
 Phone: 614.773.6500 Toll Free: 888.773.5448  
 emht.com

**CONSERVATION EASEMENT**  
 FARM LOTS 20, 28 & 29, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15  
 UNITED STATES MILITARY DISTRICT  
 CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: August 15, 2019  
 Scale: 1" = 300'  
 Job No: 2019-0092



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Prepared: 09/04/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## ORDINANCE O-34-2019

### AN ORDINANCE TO ABOLISH THE BOARD OF CONSTRUCTION APPEALS AND AMEND CODIFIED ORDINANCE CHAPTER 1305 "BUILDING ADMINISTRATION" AND CODIFIED ORDINANCE CHAPTER 1330 "INTERNATIONAL PROPERTY MAINTENANCE CODE" AS REQUESTED BY THE CITY OF NEW ALBANY

**WHEREAS**, changes in the building code and a decrease in property maintenance code violations have resulted in a lack of agenda items for the Board of Construction Appeals; and

**WHEREAS**, the Board of Construction Appeals endorsed the abolishment at their March 18, 2019 meeting; and

**WHEREAS**, the Codified Ordinances of the City of New Albany Chapter 1305.09 Building Administration – Board of Construction Appeals needs to be amended to establish an appeal process to the Residential Code of Ohio, as adopted and enforced by the City of New Albany's Architectural Review Board, in order to abolish the Board of Construction Appeals; and

**WHEREAS**, the Architectural Review Board is comprised of at least two design professionals, architects, planners, or engineers that can appropriately rule on appeals to the Residential Code of Ohio as required; and

**WHEREAS**, the Codified Ordinances of the City of New Albany Chapter 1330 International Property Maintenance Code Section 111 needs to be amended to establish appeals to International Property Maintenance Code, as adopted and enforced by the city of New Albany, by the city's Board of Zoning Appeals in order to abolish the Board of Construction appeals; and

**WHEREAS**, the Board of Zoning Appeals currently hears appeals to the city's planning and zoning code and thereby can appropriately rule on appeals to the city's International Property Maintenance Code.

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

**Section 1.** The city's Board of Construction Appeals is abolished.

**Section 2.** Portions of Codified Ordinance Chapter 1305.09 "BUILDING ADMINISTRATION - BOARD OF CONSTRUCTION APPEALS" and Codified Ordinance Chapter 1330 "INTERNATIONAL PROPERTY MAINTENANCE CODE" Section 111 "MEANS OF APPEAL" be amended as set forth in Exhibit A and Exhibit B, and depicted in red ink.

**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 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

Exhibit A – O-34-2019

CHAPTER 1305 - BUILDING ADMINISTRATION<sup>1</sup>

1305.09 - ~~BOARD OF CONSTRUCTION~~-APPEALS.

- (a) ~~It is necessary to form a have a Board of Building to hear building Appeals for within the City of New Albany. The board shall be created pursuant to Section 10.01 of the City Charter, Boards and Commissions. The Board of Zoning Architectural Review Board appeals shall hear and decide appeals from any decisions or interpretations made by City staff under this chapter. Any such appeal shall be in conformance with the appeals criteria standards and procedures set forth in Chapter 1113. The Board shall be created to hear all appeals not related to the Ohio Building Code (OBC); namely, one-, two- and three-family residential dwellings within the corporation limits, or the Property Maintenance Code. The Board shall also have jurisdiction over licensing procedures in situations where a determination is required in issuing, detaining or revoking a license. The Board of Zoning appeals shall hear and decide appeals from any decisions or interpretations made by City staff under this chapter. Any such appeal shall be in conformance with the appeals criteria standards and procedures set forth in Chapter 1113~~
- (b) ~~There shall be a non-refundable fee, as set forth from time to time by ordinance, to be filed at the time of the appeal. It is the intent of this Ordinance that questions of interpretation and enforcement shall be first presented to the Building Official, and that such questions shall be presented to the Architectural Review Board only on appeal from the decision of the Building Official and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Ordinance that the powers of Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. Council shall not have the authority to overrule the decisions of the Architectural Review Board and/or the Building Official on matters of appeals or variance. The procedure for deciding such questions shall be as stated in Chapter 1113.~~
- (c) ~~The Board shall be established by Council and shall consist of a minimum of five (5) members. The members shall have qualifying experience and/or training pertaining to residential construction such as persons trained in mechanical/structural engineering, building, architecture, and the like. All members shall be residents of the City of New Albany. One member of the Council shall serve as a non-voting liaison to the Board.~~
- (d) ~~The terms of the members of the Board shall be as follows:~~
- ~~(1) The initial term of one member as designated by Council shall be one year.~~
  - ~~(2) The initial term of two (2) members as designated by Council shall be for two (2) years.~~
  - ~~(3) The initial term for two (2) members as designated by Council shall be for three (3) years.~~
  - ~~(4) Upon the expiration of the term of each initial appointee, Council shall either reappoint the member or appoint a successor for a term of three (3) years. All subsequent terms shall be for a period of three (3) years.~~
- (e) ~~Meetings of the Board shall be called by the Community Development Department designee.~~
- (f) ~~The decision of the Board shall be reached by a simple majority vote of a quorum and shall be final.~~

(Ord. 11-2001. Passed 3-20-01; Ord. 20-2009. Passed 6-16-09; Ord. O-07-2012. Passed 3-7-12.)

Exhibit B – O-34-2019

CHAPTER 1330 - INTERNATIONAL PROPERTY MAINTENANCE CODE

**SECTION 111  
MEANS OF APPEAL**

**111.1 Application for appeal.** Any person directly affected by a decision of the Code Official or a notice order issued under this code shall have the right of appeal to the ~~Village-City~~ of New Albany Board of ~~Construction-Zoning~~ Appeals, provided a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

111.2 Deleted.

111.2.1 Deleted.

111.2.2 Deleted.

111.2.3 Deleted.

111.2.4 Deleted.

111.2.5 Deleted.

111.3 Deleted.

**111.4 Open hearing.** All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership.

**111.4.1 Procedure.** The Board shall adopt and make available to the public through the Secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

**111.5 Postponed hearing.** When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**111.6 Board decision.** The Board shall modify or reverse the decision of the Code Official only by a concurring vote of a majority of the total number of appointed Board members.

**111.6.1 Records and copies.** The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the Code Official.

**111.6.2 Administration.** The Code Official shall take immediate action in accordance with the decision of the Board.

**111.7 Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

**111.8 Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Appeals Board.



Prepared: 09/06/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## ORDINANCE O-35-2019

### AN ORDINANCE TO ACCEPT A 0.923 ACRE TRACT OF LAND GENERALLY LOCATED AT THE NORTHEAST CORNER OF JUG STREET AND BEECH ROAD FROM MBJ HOLDINGS, LLC, TO SERVE AS THE FUTURE LOCATION OF A WATER BOOSTER STATION

**WHEREAS**, the subject tract of land is located along the north side of Jug Street, east of Beech Road; and

**WHEREAS**, there is a need for a future water booster station to support the continued development in this area of the city; and

**WHEREAS**, the property owner requests to donate the subject tract of land at no cost to the City; and

**WHEREAS**, the city engineer has reviewed the newly created lot and determined that this tract of land is an appropriate location for a water booster station to serve development in the surrounding area; and

**WHEREAS**, the city will benefit from this dedication of land.

**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 0.923 acre tract of land from MBJ Holdings LLC to serve as the future location of a water booster station as described and depicted in 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 legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 3.** Pursuant to Article 6.07(B) of the New Albany Charter, this ordinance shall become effective thirty (30) days after adoption.

CERTIFIED AS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**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 **MBJ HOLDINGS, LLC** a Delaware limited liability company (the "**Grantor**"), 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 real property more particularly described as follows:

**Property:** That certain 0.923± acre tract situated in the City of New Albany, County of Licking, and State of Ohio and being more particularly described on Exhibit A and depicted on Exhibit B (the "**Property**"), both of which are attached hereto and made a part hereof.

**Tax Parcel Number:** \_\_\_\_\_ (Portion of 095-111606-00.000).

**Prior Instrument References:** Instrument Numbers 201901080000387 and \_\_\_\_\_, both of the Recorder's Office, Licking County, Ohio.

The conveyance made hereunder is subject to all covenants, conditions, easements, restrictions, reservations, and other matters of record in the Office of the Recorder, Licking 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 to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**GRANTOR:**

**MBJ HOLDINGS, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OHIO                    )  
                                                  ) SS:  
COUNTY OF FRANKLIN        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, the \_\_\_\_\_ of MBJ HOLDINGS, LLC, a Delaware limited liability company, on behalf of the limited liability company.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

This instrument prepared by  
and after recording return to:  
MBJ Holdings, LLC  
8000 Walton Parkway, Suite 120  
New Albany, Ohio 43054  
(614) 939-8000

0.923 ACRE

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Farm Lot 30, Quarter Township 2, Township 2, Range 15, United States Military District, being part of the remainder of that 125.774 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201901080000387, (all references are to the records of the Recorder's Office, Licking County, Ohio) being more particularly described as follows:

Beginning, for reference, at a 5/8" rebar found (8 inches deep) at the centerline intersection of Beech Road with the easterly extension of Jug Street Road, being the southwest corner of that 4.932 acre tract conveyed to the City of New Albany by deed of record in Instrument Number \_\_\_\_\_, and the common corner of said Farm Lot 30 and Farm Lot 31, being in the easterly line of Farm Lot 34 of said Quarter Township 2, Township 2, Range 15;

Thence South 86° 29' 19" East, with the centerline of said Jug Street Road, the southerly line of said 4.932 acre tract and that 3.730 acre tract conveyed to the City of New Albany by deed of record in Instrument Number \_\_\_\_\_, with the line common to said Farm Lots 30 and 31, a distance of 311.91 feet to a point;

Thence North 03° 30' 41" East, across the right-of-way of said Jug Street Road and said 3.730 acre tract, a distance of 30.00 feet to an iron pin set in the northerly right-of-way line thereof, being the line common to said 3.730 acre tract and the remainder of said 125.774 acre tract, and being the TRUE POINT OF BEGINNING;

Thence across the remainder of said 125.774 acre tract, the following courses and distances:

North 03° 30' 41" East, a distance of 217.32 feet to an iron pin set;

South 86° 29' 19" East, a distance of 185.07 feet to an iron pin set; and

South 03° 30' 41" West, a distance of 217.32 feet to an iron pin set in the northerly right-of-way line of said Jug Street Road, said common line;

North 86° 29' 19" West, with said northerly right-of-way line, said common line, a distance of 185.07 feet to the TRUE POINT OF BEGINNING, containing 0.923 acre, more or less, out of Auditor's Parcel Number 095-111606-00.000.

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

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

The bearings herein are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of Franklin County Engineering monuments Frank 80 and Frank 180. The portion of the centerline of Beech Road, having a bearing of North 02° 57' 02" East, is designated the "basis of bearings" for this survey.

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.

Heather L. King  
Professional Surveyor No. 8307

9/3/19  
Date

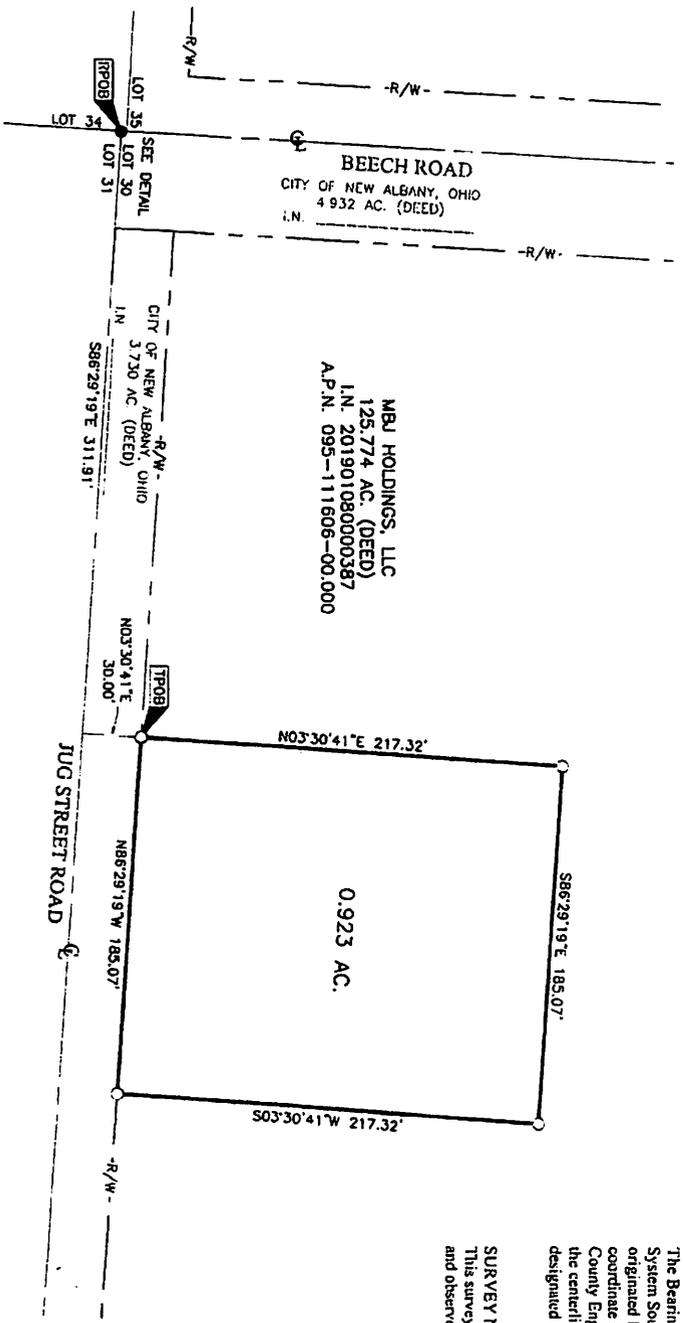
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0\_923 ac 20180533-VS-BNDY-01.doc

PRE-APPROVAL  
LICKING COUNTY ENGINEER  
APPROVED  CONDITIONAL   
APPROVED BY: [Signature]  
DATE: 9/3/19

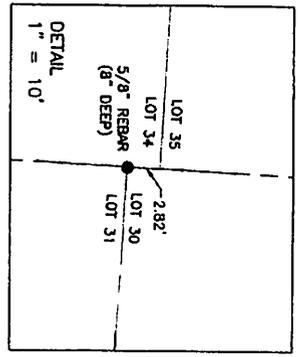


**SURVEY OF ACREAGE PARCEL**  
**FARM LOT 30, QUARTER TOWNSHIP 2, TOWNSHIP 2, RANGE 15**  
**UNITED STATES MILITARY DISTRICT**  
**CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO**

Date: August 29, 2019  
 Scale: 1" = 60'  
 Job No: 2018-0533



**MBJ HOLDINGS, LLC**  
 125.774 AC. (DEED)  
 I.N. 201901080000387  
 A.P.N. 095-111606-00.000



**BASIS OF BEARINGS:**  
 The Bearings shown hereon are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of Franklin County Engineering monuments Frank 80 and Frank 180. The portion of the centerline of Beech Road, having a bearing of North 02° 57' 02" East, is designated the "basis of bearings" for this survey.

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



By: *Heather L. King*  
 Heather L. King  
 Professional Surveyor No. 8307  
 Date: *9/3/19*



Prepared: 09/04/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## RESOLUTION R-42-2019

### A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ADVERTISE, AWARD BIDS AND EXECUTE A CONTRACT FOR THE HARLEM ROAD AND DUBLIN-GRANVILLE ROAD LEISURE TRAIL IMPROVEMENT PROJECTS

**WHEREAS**, Council of the City of New Albany, Ohio desires to proceed with installation of leisure trails on Harlem Road and Dublin-Granville Road; and

**WHEREAS**, providing leisure trail connectivity is a city priority, meets city master plan goals, and increases safety; and

**WHEREAS**, funding for leisure trail improvements was provided for in the Annual Appropriations Ordinance (Ord. O-25-2018); and

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

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

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

**Section 1:** The city manager is hereby authorized to proceed with advertisement, acceptance and execution of a contract for the Harlem Road and Dublin-Granville Road Leisure Trail Improvement Projects.

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

**Section 3:** Pursuant to Article VI, Section 6.07(a) of the charter of the City of New Albany, this resolution shall be in effect immediately upon passage.

CERTIFIED AS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

PROPOSED



Prepared: 09/04/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## RESOLUTION R-43-2019

**A RESOLUTION TO WAIVE THE COMPETITIVE BIDDING REQUIREMENT AS SET FORTH IN SECTION 9.04(C) OF THE NEW ALBANY CHARTER AND AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH AMERICAN ELECTRIC POWER (AEP) TO COMPLETE FIBER OPTIC CONNECTIONS FOR THE NEW ALBANY TRAFFIC SIGNAL INTERCONNECT PROJECT AT A COST NOT TO EXCEED \$70,000**

**WHEREAS**, in October of 2007, the City of New Albany entered into a Fiber Agreement with American Electric Power whereby AEP would have exclusive rights for maintenance and improvement work to the New Albany/AEP shared fiber optic network; and

**WHEREAS**, the City of New Albany is currently working on a project to interconnect the city traffic signal systems to the New Albany/AEP shared fiber optic network; and

**WHEREAS**, AEP has provided a proposal to perform the needed fiber optic connections for the traffic signal project for a total cost of \$70,000; and

**WHEREAS**, the city manager has reviewed the AEP proposal and determined that acceptance of the proposal is in the best interest of 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:** That the City of New Albany hereby waives the competitive bidding requirement as set forth in section 9.04(C) of the New Albany Charter and authorize the city manager to enter into an agreement with American Electric Power (AEP) to complete fiber optic connections for the New Albany Traffic Signal Interconnect project at a cost not to exceed \$70,000.

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

**Section 3:** Pursuant to Article VI, Section 6.07(a) of the charter of the City of New Albany, this resolution shall be in effect immediately upon passage.

CERTIFIED AS ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

PROPOSED



Prepared: 09/04/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## RESOLUTION R-44-2019

**A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PURCHASE AGREEMENT WITH REXEL USA INC DBA GEXPRO FOR THE PURCHASE OF REPLACEMENT STREETLIGHT FIXTURES AS PERMITTED BY SECTION 125.04(C) OF THE OHIO REVISED CODE FOR A PRICE NOT TO EXCEED \$350,000.00**

**WHEREAS**, in 2018 the City of New Albany initiated a capital improvement project to convert streetlight luminaires from old style bulbs to new LED style luminaires; and

**WHEREAS**, replacing the streetlight luminaires to LED will provide substantial savings on energy usage, reduce maintenance and labor costs; and

**WHEREAS**, streetlight conversion costs was approved in the FY2019 Capital Budget and provided for in the Annual Appropriations Ordinance.

**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:** City Council hereby authorizes the city manager to enter into a purchase agreement with Rexel USA Inc. dba Gexpro for the purchase of replacement streetlight fixtures as permitted by Section 125.04(C) of the Ohio Revised Code for a price not to exceed \$350,000.

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

**Section 3:** Pursuant to Article VI, Section 6.07(a) of the charter of the City of New Albany, this resolution shall be in effect immediately upon passage.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

PROPOSED



Prepared: 09/04/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## RESOLUTION R-45-2019

### **A RESOLUTION TO WAIVE THE COMPETITIVE BIDDING REQUIREMENT FOR THE PURCHASE OF AN ELECTRIC BUS AND TO AUTHORIZE THE CITY MANAGER TO ENTER INTO ALL NECESSARY CONTRACTS WITH PUBLIC AND PRIVATE ENTITIES FOR ITS PURCHASE**

**WHEREAS**, the City of New Albany and the Central Ohio Transit Authority (COTA) jointly submitted a Federal Transportation Administration grant application to facilitate the purchase of an electric bus; and

**WHEREAS**, the Federal Transportation Administration selected the joint grant application and awarded funds to the city and COTA for purchasing the bus; and

**WHEREAS**, COTA has prepared a comprehensive RFP document which includes the federal grant requirements and agency specifications for the purchase of such buses; and

**WHEREAS**, COTA has extensive experience administering federal grants, preparing bus specifications, and working with bus manufacturers; and

**WHEREAS**, COTA has expressed an interest in permitting the city to include its bus as an alternate in the COTA RFP documents; and

**WHEREAS**, the city would like to avail itself of COTA's expertise, if possible, in order to minimize the cost of preparing an RFP document and assist with managing the production process of a bus; and

**WHEREAS**, Section 9.04(C) of the New Albany Charter permits council to waive competitive bidding by a majority vote of no less than five members if such waiver is determined to be in the best interest of 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.** For the reasons set forth herein, the requirement of New Albany Charter Section 9.04(B) that the purchase of equipment which exceeds the threshold established by council shall be competitively bid is hereby waived.

**Section 2.** The city manager is hereby authorized to join with COTA in its RFP process for the potential bus purchase.

**Section 3.** In the event that the city and COTA are unable to jointly participate in the COTA RFP process, the city manager is hereby authorized to develop an independent RFP document for the city's use in order to facilitate the purchase of a bus.

**Section 4:** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 5:** Pursuant to Article VI, Section 6.07(a) of the charter of the City of New Albany, this resolution shall be in effect immediately upon passage.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director



Prepared: 09/06/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## RESOLUTION R-46-2019

### A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE FRANKLIN COUNTY AUDITOR

**WHEREAS**, the City Council of New Albany, Ohio met in regular session on the 17<sup>th</sup> day of September, 2019 at the New Albany Village Hall with the following members present:

Mayor Sloan Spalding

Council Member Colleen Briscoe

Council Member Michael Durik

Council Member Kasey Kist

Council Member Marlene Brisk

Council Member Edward Fellows

Council Member Matt Shull

**WHEREAS**, this Council in accordance with the provision of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1, 2020; and

**WHEREAS**, the Budget Commission of Franklin County, Ohio, has certified its action thereon to this Council together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within, the ten mill tax limitation.

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

**Section 1:** The amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted.

**Section 2.** That there be and is hereby levied on the tax duplicate of said city the rate of each tax necessary to be levied within and without the ten mill limitation for tax year 2019 (collection year 2020) as follows:

See Attached Schedule A.

**Section 3:** The Clerk of Council of the City of New Albany is hereby directed to certify a copy of this Resolution to the Franklin County Auditor.

**Section 4:** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of the Council and that all

deliberations of this Council and any decision making bodies of the City of New Albany which resulted in such formal were in meetings open to the public, in compliance with all legal requirements of the City of New Albany, Counties of Franklin and Licking, Ohio, and that the Clerk of Council be and is hereby directed to certify a copy of this Resolution to the County Auditor of said County.

**Section 5:** Pursuant to Article 6.07(a) of the New Albany Charter, this resolution shall be in full force and effect from and immediately upon its adoption.

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

The roll being called as follows:

Mayor Sloan Spaulding	_____	
Council Member Colleen Briscoe	_____	Council Member Marlene Brisk _____
Council Member Michael Durik	_____	Council Member Edward Fellows _____
Council Member Kasey Kist	_____	Council Member Matt Shull _____

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of September, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spaulding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director

**SCHEDULE A**

**SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY APPROVED BY THE  
BUDGET COMMISSION, AND COUNTY AUDITOR'S ESTIMATED TAX RATES**

<b>FUND</b>	<b>Amount to be Derived from Levies Outside 10 Mill Limitation</b>	<b>Amount Approved by Budget Commission Inside 10 Mill Limitation</b>	<b>County Auditor's Estimate of Full Tax Rate to Be Levied</b>	
			<b>Inside 10 Mill Limit</b>	<b>Outside 10 Mill Limit</b>
<b>General</b>		<b>\$1,299,261.86</b>	<b>1.94</b>	
<b>General Fund Charter</b>				
<b>Bond Retirement</b>				
<b>Bond Retirement Charter</b>				
<b>Police Pension</b>				
<b>Police Operating</b>				
<b>Fire Pension</b>				
<b>Fire Operating</b>				
<b>Police/Fire Pension</b>				
<b>Capital Improvement Charter</b>				
<b>Road &amp; Sidewalk Fund</b>				
<b>TOTAL</b>		<b>\$1,299,261.86</b>	<b>1.94</b>	



Prepared: 09/06/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## RESOLUTION R-47-2019

### A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE LICKING COUNTY AUDITOR

**WHEREAS**, the City Council of New Albany, Ohio met in regular session on the 17<sup>th</sup> day of September, 2019 at the New Albany Village Hall with the following members present:

Mayor Sloan Spalding

Council Member Colleen Briscoe

Council Member Michael Durik

Council Member Kasey Kist

Council Member Marlene Brisk

Council Member Edward Fellows

Council Member Matt Shull

**WHEREAS**, this Council in accordance with the provision of law has previously adopted a Tax Budget for the next succeeding fiscal year commencing January 1, 2020; and

**WHEREAS**, the Budget Commission of Licking County, Ohio, has certified its action thereon to this Council together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within, the ten mill tax limitation.

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

**Section 1:** The amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted.

**Section 2.** That there be and is hereby levied on the tax duplicate of said city the rate of each tax necessary to be levied within and without the ten mill limitation for tax year 2019 (collection year 2020) as follows:

See Attached Schedules A and B.

**Section 3:** The Clerk of Council of the City of New Albany is hereby directed to certify a copy of this Resolution to the Licking County Auditor.

**Section 4:** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of the Council and that all

deliberations of this Council and any decision making bodies of the City of New Albany which resulted in such formal were in meetings open to the public, in compliance with all legal requirements of the City of New Albany, Counties of Franklin and Licking, Ohio, and that the Clerk of Council be and is hereby directed to certify a copy of this Resolution to the County Auditor of said County.

**Section 5:** Pursuant to Article 6.07(a) of the New Albany Charter, this resolution shall be in full force and effect from and immediately upon its adoption.

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

The roll being called as follows:

Mayor Sloan Spaulding	_____	
Council Member Colleen Briscoe	_____	Council Member Marlene Brisk _____
Council Member Michael Durik	_____	Council Member Edward Fellows _____
Council Member Kasey Kist	_____	Council Member Matt Shull _____

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of September, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spaulding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchefsky  
Law Director





Prepared: 08/12/2019  
Introduced: 09/17/2019  
Revised:  
Adopted:  
Effective:

## RESOLUTION R-48-2019

### **A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO APPROVE AND SIGN AGREEMENTS WITH BLUE SCOPE LLC RELATED TO INCENTIVES AVAILABLE FOR PROJECT DEVELOPMENT IN THE OAK GROVE II COMMUNITY REINVESTMENT AREA**

**WHEREAS**, the Council for the City of New Albany, Ohio (the "City") by its Resolution No. R-17-09 adopted March 3, 2009 (the "Original CRA Legislation"), created the Oak Grove II Community Reinvestment Area (the "Original Area") and by its Resolutions No. R-41-10 adopted July 6, 2010, No. R-72-10 adopted November 16, 2010, No. R-53-2012 adopted October 2, 2012, No. R-26-2013 adopted August 6, 2013, No. R-72-2014 adopted September 16, 2014, and R-49-2015 adopted November 17, 2015, No. R-45-2016 adopted November 1, 2016, No. R-02-17 adopted February 7, 2017, No. R-17-18 adopted July 17, 2018, No. R-41-18 adopted November 6, 2018, No. R-05-2019 adopted February 19, 2019, and No. R-37-2019 adopted August 6, 2019, and (together the "CRA Expansion Legislation" and collectively with the Original CRA Legislation the "CRA Legislation"), amended the designation of the Original Area to include the area known as the "Johnstown Monroe Area", "Johnstown Monroe Annex", "Licking Heights Annex", "Cobbs Road Annex", "Harrison Road Area", "Innovation Campus Area" "Innovation Campus Way Extension" "Beech Road South", "Babbitt Road", and the "Central College Road Area" respectively, and certain other parcels within the City (collectively, with the Original Area, the "Area"), and designated that entire Area the Oak Grove II Community Reinvestment Area; and

**WHEREAS**, the City has encouraged the development of real property and the acquisition of personal property to be located in the CRA; and

**WHEREAS**, the Director of Development of the State of Ohio has determined that the Area contains the characteristics set forth in R.C. Section 3735.66 and confirmed the Area as a "Community Reinvestment Area"; and

**WHEREAS**, Blue Scope LLC has submitted to the City a proposed agreement application (the "Application"), the Housing Officer of the City designated under Ohio Revised Code Section 3735.65 has reviewed the Application and has recommended the same to this Council on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities in the CRA and to improve the economic climate of the City, and the City, having appropriate authority, desires to provide the Company with the incentives available in the CRA for the development of the project described in that Application; and

**WHEREAS**, the Board of Education of the Licking County Career & Technology Education Center (C-TEC) has been notified in accordance with the applicable law; and

**WHEREAS**, the Board of Education of the Licking Heights Local School District approved this Agreement and waived their right to notice in accordance with their respective compensation agreements entered into with New Albany;

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

**Section 1.** The city manager is hereby authorized to execute the Agreement on file in the New Albany Community Development Department, which Agreement provides for a 10-year, 100% CRA exemption for the proposed building to be located on the south side of Innovation Campus Way between Harrison and Mink Roads, and directed to take any further actions, and execute and deliver any further agreements, certificates or documents necessary to accomplish the granting of the incentives described in the Agreement, provided further that the approval of changes thereto by the city manager and their character as not being substantially adverse to the City shall be evidenced conclusively by the execution thereof.

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

**Section 3.** Pursuant to Article 6.07(A) of the New Albany Charter, this resolution shall take effect upon adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**Attest:**

\_\_\_\_\_  
Sloan T. Spalding  
Mayor

\_\_\_\_\_  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Mitchell H. Banchevsky  
Law Director