



ORDINANCE O-06-2020

AN ORDINANCE TO ACCEPT A 0.316 ACRE TRACT OF LAND FROM THE NEW ALBANY COMPANY LLC FOR THE PURPOSE OF PUBLIC RIGHT OF WAY

WHEREAS, the tracts of land are located within and along the south side of Dublin-Granville Road to the west of West Main Street; and

WHEREAS, the majority of the parcel currently extends to the centerline of Dublin-Granville Road and has historically been served by way of a highway easement and the remaining land has been improved to allow for an extension of sidewalk and leisure trail to West Main Street. 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 0.316 acre tract of land from the New Albany Company 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 Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

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 19th day of May, 2020.

Attest:

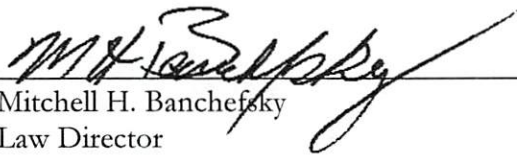


Sloan T. Spalding
Mayor



Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchevsky
Law Director

Legislation dates:

Prepared:	04/24/2020
Introduced:	05/05/2020
Revised:	
Adopted:	05/19/2020
Effective:	06/18/2020

Exhibit A – O-06-2020

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

KNOW ALL MEN BY THESE PRESENTS that **THE NEW ALBANY COMPANY LLC**, a Delaware limited liability company (the “**Grantor**”), 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 0.316± acre tract situated in the City of New Albany, County of Franklin and State of Ohio, and being more particularly described on Exhibit A and depicted on Exhibit A-1 (the “**Property**”), both of which are attached hereto and made a part hereof.

Tax Parcel Number: Portion of 222-000138-00 (0.316± acre).

Prior Instrument Reference: Instrument Number 201902010013153, Recorder’s Office, Franklin 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 Recorder’s Office, Franklin County, Ohio.

[SIGNATURE AND ACKNOWLEDGMENT ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor has caused this Limited Warranty Deed to be executed by its duly authorized signatory to be effective as of the _____ day of _____, 2020.

GRANTOR:

THE NEW ALBANY COMPANY 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 _____, 2020, by _____, the _____ of THE NEW ALBANY COMPANY LLC, a Delaware limited liability company, on behalf of the limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

[SEAL]

NOTARY PUBLIC

My Commission Expires: _____

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

Exhibit A

Legal Description of 0.316± Acre

See attached.

Exhibit A-1

[To be attached]



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

SURVEY OF ACREAGE PARCEL

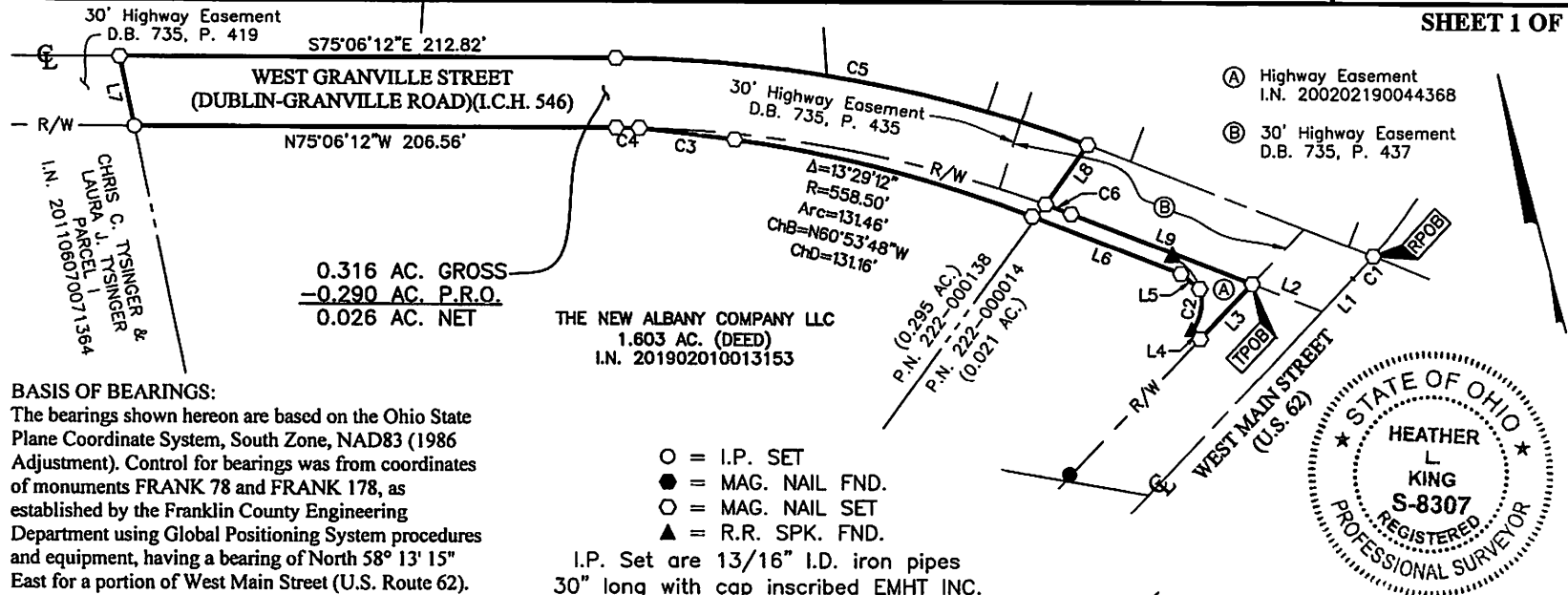
LOT 39, QUARTER TOWNSHIP 4, TOWNSHIP 2, RANGE 16
UNITED STATES MILITARY LANDS
CITY OF NEW ALBANY, COUNTY OF FRANKLIN, STATE OF OHIO

Date: April 29, 2019

Scale: 1" = 60'

Job No: 2018-1331

SHEET 1 OF 2



BASIS OF BEARINGS:

The bearings shown hereon are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 78 and FRANK 178, as established by the Franklin County Engineering Department using Global Positioning System procedures and equipment, having a bearing of North 58° 13' 15" East for a portion of West Main Street (U.S. Route 62).

SURVEY NOTE:

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

J:\20181331\DWG\04SHEETS\BOUNDARY\20181331-VS-BNDY-RWAY-01.DWG plotted by KING, HEATHER on 5/2/2019 2:20:38 PM last saved by KING on 5/2/2019 2:19:59 PM
Xrefs:



Evans, Mechwart, Hamilton & Tilton, Inc.
Engineers • Surveyors • Planners • Scientists
3500 New Albany Road, Columbus, OH 43264
Phone: 614.775.4500 Fax: 614.775.4500
emht.com

SURVEY OF ACREAGE PARCEL
LOT 39, QUARTER TOWNSHIP 4, TOWNSHIP 2, RANGE 16
UNITED STATES MILITARY LANDS
CITY OF NEW ALBANY, COUNTY OF FRANKLIN, STATE OF OHIO

Date:

April 29, 2019

Scale:

1" = 60'

Job No:

2018-1331

SHEET 2 OF 2

CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CH. BEARING	CH. DIST.
C1	2°34'06"	287.94'	12.91'	S56°56'12"W	12.91'
C2	53°15'57"	20.50'	19.06'	N25°32'45"E	18.38'
C3	1°34'19"	1487.00'	40.80'	N68°25'34"W	40.80'
C4	1°02'17"	542.96'	9.84'	N74°35'03"W	9.84'
C5	20°34'41"	572.96'	205.78'	S64°48'52"E	204.68'
C6	1°13'34"	542.96'	11.62'	S54°45'59"E	11.62'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S58°13'15"W	19.42'
L2	N54°09'12"W	32.44'
L3	S58°13'15"W	32.45'
L4	N31°45'19"W	4.89'
L5	N36°56'21"W	10.36'
L6	N54°09'12"W	68.27'
L7	N03°05'53"E	30.65'
L8	S50°32'43"W	31.13'
L9	S54°09'12"E	83.20'

J:\2018\1331\DWG\04\SUBJECTS\BOUNDARY\20181331-VS-BNDY-RWAY-01.DWG plotted by WEBB, TEAGUE on 4/29/2019 4:08:17 PM last saved by WEBB on 4/29/2019 4:05:56 PM

0.316 ACRE

Situated in the State of Ohio, County of Franklin, City of New Albany, lying in Lot 39, Quarter Township 4, Township 2, Range 16, United States Military Lands, being part of that 1.603 acre tract conveyed to The New Albany Company LLC by deed of record in Instrument Number 201902010013153, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) and being more particularly described as follows:

Beginning, for reference, at a magnetic nail set at the centerline intersection of West Granville Street (Dublin-Granville Road)(I.C.H. 546) with West Main Street (U.S. 62);

Thence with the centerline of said West Main Street, with the arc of a curve to the right, having a central angle of 02° 34' 06", a radius of 287.94 feet, an arc length of 12.91 feet, a chord bearing of South 56° 56' 12" West and chord distance of 12.91 feet to a point of tangency;

Thence South 58° 13' 15" West, continuing with said centerline, a distance of 19.42 feet to a point;

Thence North 54° 09' 12" West, across said West Main Street, a distance of 32.44 feet to a magnetic nail set at the northeasterly corner of said 1.603 acre tract, the TRUE POINT OF BEGINNING;

Thence South 58° 13' 15" West, with the easterly line of said 1.603 acre tract, a distance of 32.45 feet to a magnetic nail set at the intersection of the westerly right-of-way line of said West Main Street with the southerly right-of-way line of said West Granville Street;

Thence across said 1.603 acre tract, the following courses and distances:

North 31° 45' 19" West, with said southerly right-of-way line, a distance of 4.89 feet to a railroad spike found;

With said southerly right-of-way line, with the arc of a curve to the left, having a central angle of 53° 15' 57", a radius of 20.50 feet, an arc length of 19.06 feet, a chord bearing of North 25° 32' 45" East and chord distance of 18.38 feet to a magnetic nail set;

North 36° 56' 21" West, a distance of 10.36 feet to a magnetic nail set;

North 54° 09' 12" West, a distance of 68.27 feet to a magnetic nail set at a point of curvature;

with the arc of a curve to the left, having a central angle of 13° 29' 12", a radius of 558.50 feet, an arc length of 131.46 feet, a chord bearing of North 60° 53' 48" West and chord distance of 131.16 feet to a magnetic nail set at a point on the arc of a curve;

with the arc of a curve to the left, having a central angle of 01° 34' 19", a radius of 1487.00 feet, an arc length of 40.80 feet, a chord bearing of North 68° 25' 34" West and chord distance of 40.80 feet to a magnetic nail set at a point of compound curvature in said southerly right-of-way line;

With said southerly right-of-way line, with the arc of a curve to the left, having a central angle of 01° 02' 17", a radius of 542.96 feet, an arc length of 9.84 feet, a chord bearing of North 74° 35' 03" West and chord distance of 9.84 feet to a magnetic nail set at a point of tangency; and

North 75° 06' 12" West, with said southerly right-of-way line, a distance of 206.56 feet to an iron pin set in the line common to said 1.603 acre tract and that tract conveyed as Parcel I to Chris C. Tysinger and Laura J. Tysinger by deed of record in Instrument Number 201106070071364;

0.316 ACRE

- 2 -

Thence North 03° 05' 53" East, with said common line, a distance of 30.65 feet to a magnetic nail set in the centerline of said West Granville Street;

Thence South 75° 06' 12" East, with the northerly line of said 1.603 acre tract, said centerline, a distance of 212.82 feet to a magnetic nail set at a point of curvature;

Thence with said northerly line, said centerline, with the arc of a curve to the right, having a central angle of 20° 34' 41", a radius of 572.96 feet, an arc length of 205.78 feet, a chord bearing of South 64° 48' 52" East and chord distance of 204.68 feet to a magnetic nail set;

Thence South 50° 32' 43" West, with an easterly line of said 1.603 acre tract, a distance of 31.13 feet to a magnetic nail set in said southerly right-of-way line;

Thence with the northerly line of said 1.603 acre tract, said southerly right-of-way line, with the arc of a curve to the right, having a central angle of 01° 13' 34", a radius of 542.96 feet, an arc length of 11.62 feet, a chord bearing of South 54° 45' 59" East and chord distance of 11.62 feet to a magnetic nail set at a point of tangency;

Thence South 54° 09' 12" East, with said northerly line, said southerly right-of-way line, a distance of 83.20 feet to the TRUE POINT OF BEGINNING, containing 0.316 acre, more or less, of which 0.290 acre is within the present right-of-way occupied of said West Granville Road. Of said 0.316 acre tract, 0.295 acre is part of Auditor Parcel Number 222-000138 and 0.021 acre is part of Auditor Parcel Number 222-000014.

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, NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 78 and FRANK 178, as established by the Franklin County Engineering Department using Global Positioning System procedures and equipment, having a bearing of North 58° 13' 15" East for a portion of West Main Street (U.S. Route 62).



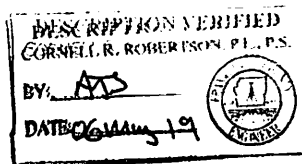
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0_316 ac 20181331-VS-BNDY-RWAY-01.doc

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King
Heather L. King
Professional Surveyor No. 8307

5/3/19
Date

Split
0.295 acre
out of
(222)
138
+
Split
0.021 acre
out of
(222)
14





ORDINANCE O-07-2020

AN ORDINANCE TO DECLARE THE IMPROVEMENT TO CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE, EXEMPT 100% OF THAT IMPROVEMENT FROM REAL PROPERTY TAXATION, REQUIRE THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, PROVIDE FOR THE DISTRIBUTION OF THE APPLICABLE PORTION OF THOSE SERVICE PAYMENTS TO THE JOHNSTOWN-MONROE LOCAL SCHOOL DISTRICT, THE NEW ALBANY PLAIN LOCAL SCHOOL DISTRICT, THE CAREER AND TECHNOLOGY EDUCATION CENTERS OF LICKING COUNTY, AND EASTLAND FAIRFIELD CAREER & TECHNICAL SCHOOL, ESTABLISH A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THE REMAINDER OF THOSE SERVICE PAYMENTS, SPECIFY THE PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT DIRECTLY BENEFIT THOSE PARCELS, AND APPROVE AND AUTHORIZE THE EXECUTION OF ONE OR MORE TAX INCREMENT FINANCING AGREEMENTS

WHEREAS, Sections 5709.40, 5709.42 and 5709.43 of the Ohio Revised Code (collectively, the “*TIF Statutes*”) authorize this Council to declare the improvement to certain parcels of real property located within the City of New Albany, Ohio (the “*City*”) to be a public purpose and exempt from taxation, require the owner of those parcels to make service payments in lieu of taxes, provide for the distribution of the applicable portion of those service payments to the Johnstown-Monroe Local School District, the Career and Technology Education Centers of Licking County (C-TEC), New Albany Plain Local School District, and Eastland Fairfield Career & Technical School (EFCTS), (each, a “*School District*”), establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of those service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels; and

WHEREAS, the parcels of real property identified and depicted in Exhibit A attached hereto (each, as now or hereafter configured on the tax list and duplicate of real and public utility property, a “*Parcel*”, and collectively, the “*Parcels*”) are located in the City, and this Council has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to each Parcel to be a public purpose; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to each Parcel as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for thirty (30)

years and to simultaneously direct and require the current and future owner of each Parcel (each such owner individually, an “Owner,” and collectively, the “Owners”) to make annual Service Payments (as defined in Section 2 of this Ordinance); and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to each School District in an amount equal to the real property taxes that the School District would have received if the Improvement to the Parcels had not been exempted from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement tax increment equivalent fund in which there shall be deposited the remaining Service Payments distributed to the City; and

WHEREAS, this Council has determined to designate the public infrastructure improvements described in Exhibit B attached hereto (the “Public Infrastructure Improvements”) as public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, the Parcels; and

WHEREAS, this Council has determined to provide for the execution and delivery of one or more Tax Increment Financing Agreements (each, a “TIF Agreement”), which will more fully provide for the collection of Service Payments; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of Career and Technology Education Centers of Licking County (C-TEC) in accordance with, and within the time periods prescribed by, Section 5709.83 of the Ohio Revised Code;

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of Eastland Fairfield Career and Technical School of Franklin County in accordance with, and within the time periods prescribed by, Section 5709.83 of the Ohio Revised 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. Authorization of Tax Exemption. Pursuant to and in accordance with the provisions of Section 5709.40(B) of the Ohio Revised Code, one hundred percent (100%) of the increase in assessed value of each Parcel that is used or to be used for non-residential purposes and that would first appear on the tax list and duplicate of real and public utility property after the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the “Improvement”, as further defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure on that Parcel first appears on the tax list and duplicate of real and public utility property for that Parcel and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes. The real property tax exemption granted pursuant to this Section and the payment obligation established pursuant to Section 2 are subject and subordinate to

any real property tax exemption granted pursuant to Sections 3735.65 to 3735.70 or Sections 5709.61 to 5709.69 of the Ohio Revised Code.

Section 2. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, this Council hereby directs and requires the Owner of each Parcel to make annual service payments in lieu of taxes with respect to the Improvement allocable thereto to the Treasurer of Licking County, Ohio (the "*County Treasurer*") on or before the final dates for payment of real property taxes. The service payment in lieu of taxes for each Parcel, including any penalties and interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code, as the same may be amended or supplemented from time to time, or any other applicable provisions of the Ohio Revised Code (collectively, the "*Service Payments*"), shall be charged to each Parcel and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement to that Parcel if it were not exempt from taxation pursuant to Section 1 of this Ordinance, all in accordance with Section 5709.42 of the Ohio Revised Code. The Service Payments, and any other payments with respect to the Improvement that are received by the County Treasurer in connection with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time, or any other applicable provisions of the Ohio Revised Code (collectively, the "*Property Tax Rollback Payments*"), shall be allocated and distributed in accordance with Section 4 of this Ordinance.

Section 3. Tax Increment Equivalent Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of Section 5709.43 of the Ohio Revised Code, the Oak Grove II Public Tax Increment Equivalent Fund (the "*Fund*"). The Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement to each Parcel and so deposited pursuant to Section 5709.42 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes and this Ordinance, as the same may be amended from time to time. The Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

Section 4. Distribution of Funds. Pursuant to the TIF Statutes, the County Treasurer is hereby requested and directed to distribute the Service Payments and Property Tax Rollback Payments as follows:

(i) to each School District, an amount equal to the amount the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance; and

(ii) to the City, all remaining amounts for further deposit into the Fund for payment of costs of the Public Infrastructure Improvements upon appropriation for that purpose by this Council. If so appropriated, such costs may but shall not be required to include, without limitation, all debt service payable on debt issued by the City or the New Albany Community Authority (the "*Authority*") to pay for Public Infrastructure Improvements, all amounts owed to any fund of the City or Authority

to reimburse that fund for the costs of any Public Infrastructure Improvements previously paid from that fund, including interest payable on those amounts, and all amounts owed by the City or Authority to any third party for the construction of Public Infrastructure Improvements, including interest payable on those amounts.

Section 5. Public Infrastructure Improvements. This Council hereby designates the Public Infrastructure Improvements described in Exhibit B attached hereto, and any other public infrastructure improvements hereafter designated by ordinance, as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

Section 6. Tax Increment Financing Agreement. The form of TIF Agreement presently on file with the Fiscal Officer is hereby approved and authorized with changes therein and amendments thereto not inconsistent with this Ordinance and not substantially adverse to the City and which shall be approved by the City Manager. The City Manager, for and in the name of the City, is hereby authorized to execute and deliver one or more TIF Agreements with one or more owners of a Parcel or Parcels in substantially that form along with any changes therein and amendments thereto, provided that the approval of such changes and amendments by the City Manager, and the character of those changes and amendments as not being substantially adverse to the City or inconsistent with this Ordinance, shall be evidenced conclusively by the City Manager's execution thereof.

Section 7. Further Authorizations. This Council hereby authorizes and directs the City Manager, the City Solicitor, the Fiscal Officer or other appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications. This Council further hereby authorizes and directs the City Manager, the City Solicitor, the Fiscal Officer or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 8. Filings with Ohio Department of Development. Pursuant to Section 5709.40(I) of the Ohio Revised Code, the City Manager or other appropriate officer of the City is hereby directed to deliver a copy of this Ordinance to the Director of Development of the State of Ohio within fifteen (15) days after its adoption. Further, on or before March 31 of each year that the exemption set forth in Section 1 of this Ordinance remains in effect, the City Manager or other appropriate officer of the City shall prepare and submit to the Director of Development of the State of Ohio the status report required under Section 5709.40(I) of the Ohio Revised Code.

Section 9. Tax Incentive Review Council. This council hereby designates the Tax Incentive Review Council created pursuant to Resolution R-46-2009 as the tax incentive review council responsible for reviewing annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that council, all in accordance with Section 5709.85 of the Ohio Revised Code.

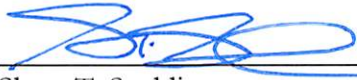
Section 10. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the

public, all in compliance with the law, in compliance with Section 121.22 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.


Section 11. Effective Date. 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 19 day of May, 2020.

Attest:

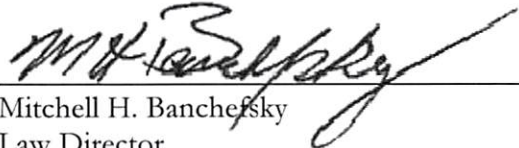


Sloan T. Spalding
Mayor



Jennifer H. Mason
Clerk of Council

Approved as to form:



Mitchell H. Banchevsky
Law Director

Legislation dates:

Prepared:	01/27/2020
Introduced:	05/05/2020
Revised:	
Adopted:	05/19/2020
Effective:	06/18/2020

EXHIBIT A – O-07-2020

PARCEL MAP

The colored areas on the attached map specifically identify and depict the Parcels and constitutes part of this Exhibit A.



Disclaimer: This map is to be used for reference purposes only and the city of New Albany, Ohio is not responsible for any errors or omissions. The map is provided as a general guide and does not constitute a warranty of accuracy. The city of New Albany, Ohio is not responsible for any damages or other liabilities due to the accuracy, availability, use or misuse of the information herein provided. Please contact the Community Development Department for zoning verification.

NEW
ALBANY
COMMUNITY CONNECTS US

OAK GROVE II INNOVATION CAMPUS WAY WEST

January 28, 2020

Parcel IDs

- 1 038-113376-00.001
- 2 222-005107-00
- 3 222-004970-00

EXHIBIT B – O-07-2020

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include the construction of the following improvements that will directly benefit the Parcels and all related costs of permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code), along with any other improvements subsequently designated by Village Council:

- public roads and highways (including street realignments);
- water and sewer lines;
- leisure trails and connections;
- parks and public facilities;
- environmental remediation projects;
- stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety and welfare;
- gas, electric and communications services facilities, including fiber optics;
- land acquisition, including acquisition in aid of industry, commerce, distribution, or research;
- demolition, including demolition on private property when determined to be necessary for economic development purposes;
- landscaping and signage, including brick retaining walls at roadway intersections; including in each case, design and other related costs (including traffic studies); any rights-of-way or real estate acquisition; curbs and gutters, medians, sidewalks, bikeways, and landscaping (including scenic fencing and irrigation); traffic signs and signalization (including overhead street signage); street lighting and signs; burial of utility lines (including fiber optics); erosion and sediment control measures; grading, drainage and other related work; survey work, soil engineering, inspection fees and construction staking; and all other costs and improvements necessary and appurtenant thereto.



ORDINANCE O-10-2020

AN ORDINANCE TO AMEND A CONSERVATION EASEMENT GENERALLY LOCATED SOUTH OF WORTHINGTON ROAD AND WEST OF BEECH ROAD TO PERMIT THE INSTALLATION OF UNDERGROUND FIBER AND ELECTRIC LINES AND DECLARING AN EMERGENCY TO WAIVE BOTH THE SECOND READING AND THE THIRTY DAY REFERENDUM PERIOD

WHEREAS, a request has been made by MBJ Holdings to amend an existing conservation easement to permit the installation of underground fiber and electric lines in portion of easement area located on the west side of Beech Road, south of Worthington Road; and

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

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

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

WHEREAS, council is satisfied that there is good cause for such amendment and that it will not be detrimental to the general interests and shall be approved, and

WHEREAS, the conservation easement amendment has been reviewed and approved by the Ohio EPA on May 4, 2020, and

WHEREAS, this ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the city and for the further reason that this ordinance is required to be immediately effective to provide for the timely provision of private infrastructure in support of active development projects.

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

Section 1. That the conservation easement generally located south of Worthington Road and West of Beech Road, as identified as instrument number 201811270025107, is hereby amended in accordance with Exhibit A.

Section 2. For the reasons stated herein, council hereby declares an emergency and waives the second reading and referendum period.

Section 3. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

Section 4. Pursuant to Article VI, Section 6.07(A) of the Charter of the City of New Albany, this ordinance shall be effective immediately upon passage.

CERTIFIED AS ADOPTED this 19 day of May, 2020.

Attest:


Sloan T. Spalding
Mayor


Jennifer H. Mason
Clerk of Council

Approved as to form:


Mitchell H. Banchefsky
Law Director

Legislation dates:

Prepared:	05/08/2020
Introduced:	05/19/2020
Revised:	
Adopted:	05/19/2020
Effective:	05/19/2020

Exhibit A

**FIRST AMENDMENT TO
CONSERVATION EASEMENT AGREEMENT**

This First Amendment to Conservation Easement Agreement (this “Amendment”) is made to be effective on the last date of signature below (the “Effective Date”), by and between **MBJ Holdings, LLC**, a Delaware limited liability company (“MBJ”), the **City of New Albany, Ohio**, an Ohio municipal corporation (the “City”), and **Montauk Innovations LLC**, a Delaware limited liability company (“Montauk”).

Prior Instrument

Reference: Instrument No. 201811270025107,
Recorder’s Office, Licking County, Ohio

RECITALS:

WHEREAS, MBJ and the City are the original parties to that certain Conservation Easement Agreement dated as of November 26, 2018, which is of record with the Office of the Recorder of Licking County, Ohio (the “Recorder’s Office”) as Instrument Number 201811270025107 (the “Conservation Easement Agreement”);

WHEREAS, pursuant to that certain Limited Warranty Deed filed of record with the Recorder’s Office as Instrument Number 201812130026436, MBJ conveyed to Montauk a portion of the real property that is burdened by the Conservation Easement Agreement; and

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

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

AGREEMENT:

1. **Defined Terms.** All capitalized terms which are used but not defined herein shall have the meanings given to them in the Conservation Easement Agreement.

2. **Correction of Subsection Lettering.** MBJ, the City and Montauk acknowledge that Section 6 of the Conservation Easement Agreement mistakenly contains two subsections labeled as subsection 6.c. The second such subsection (entitled "Use of Property") is hereby revised to be labeled and referred to as subsection 6.d.

3. **Additional Permitted Uses.** MBJ, the City and Montauk hereby agree that the following provisions shall be added as subsections 6.e and 6.f of the Conservation Easement Agreement:

e. **Underground Utilities:** MBJ and Montauk are permitted to grant easements in favor of private and/or public utility service providers within that certain Easement Area described in the Utility Easement by and between MBJ and the City dated as of November 13, 2017 and filed of record with the Recorder's Office as Instrument Number 201711220025873, as amended by the First Amendment to Utility Easement by and between MBJ and the City dated as of November 26, 2018 and filed of record with the Recorder's Office as Instrument Number 201811270025104, for the purposes of constructing, installing, operating, maintaining, repairing and replacing underground utility lines, including, but not limited to, water, sanitary sewer, electric, gas, fiber optics, telephone, cable and/or other communication lines.

f. **Underground Electric:** MBJ and Montauk are permitted to grant an electric easement(s) in favor of an electric service provider under that portion of the Conservation Easement Area extending westward for a width not to exceed 100 feet from the eastern boundary line of the Conservation Easement Area and extending to and through the northern and southern boundary lines of the Conservation Easement Area (said portion of the Conservation Easement Area is referred to herein as the "Electric Easement Area") and is more particularly described and depicted on Exhibit A attached hereto and made a part hereof). Any such electric easement(s) shall be granted subject to all of the following:

i. The grantee of such electric easement(s) shall be permitted to install, operate, maintain, repair, remove, and replace underground electric transmission, distribution, and communication lines and associated underground appurtenant equipment and fixtures (together, the "Permitted Electric Improvements") within the Electric Easement Area but shall be prohibited from installing and operating

any overhead electric lines or aboveground associated appurtenant equipment, fixtures or any surface structures whatsoever within the Electric Easement Area;

ii. The Permitted Electric Improvements shall be installed only by boring underground in a manner that does not disturb any delineated wetlands or associated buffer areas, and any future installation, removal, operation, maintenance, repair, or replacement of the Permitted Electric Improvements shall be subject to all of the items set forth in this Section 3, except as otherwise may be permitted pursuant to the terms of the Conservation Easement Agreement;

iii. Any disturbance to the surface of the ground within the Conservation Easement Area shall be promptly restored to reasonably the same condition existing prior to such disturbance;

iv. No electric transmission, distribution, or communication lines, appurtenant equipment, fixtures, or any structures whatsoever shall be permitted to be installed or operated upon the surface of the ground within the Electric Easement Area or the Conservation Easement Area; and

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

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

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

IN WITNESS WHEREOF, MBJ has caused this Amendment to be executed as of the date set forth below.

MBJ:

MBJ HOLDINGS, LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me on this ____ day of _____, 2020, by _____, the _____ of MBJ Holdings, LLC, a Delaware limited liability company, on behalf of the limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, the City has caused this Amendment to be executed as of the date set forth below.

THE CITY:

CITY OF NEW ALBANY, OHIO,
an Ohio municipal corporation

By: _____

Print Name: _____

Its: _____

Date: _____

Approved as to Form:

Mitchell Banchevsky, City Law Director

STATE OF OHIO
COUNTY OF FRANKLIN, ss.

The foregoing instrument was acknowledged before me on this ____ day of _____, 2020, by _____, the _____ of the City of New Albany, Ohio, an Ohio municipal corporation, on behalf of the municipal corporation. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, Montauk has caused this Amendment to be executed as of the date set forth below.

MONTAUK:

MONTAUK INNOVATIONS LLC,
a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

Date: _____

STATE OF _____
COUNTY OF _____, ss.

The foregoing instrument was acknowledged before me on this ____ day of _____, 2020, by _____, the _____ of Montauk Innovations LLC, a Delaware limited liability company, on behalf of the limited liability company. No oath or affirmation was administered to the signer with regard to the notarial act.

Notary Public

My Commission Expires: _____

Instrument prepared by:
MBJ Holdings, LLC
8000 Walton Parkway, Suite 120
New Albany, Ohio 43054
(614) 939-8000

EXHIBIT A – Description and Depiction of Electric Easement Area

EASEMENT 2.056 ACRES

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Section 25, Township 2, Range 15 of the United States Military District, being on, over, and across the 30.204 acre tract conveyed to MBI Holdings LLC by deed of record in Instrument Number 200201170002294 and the 219.255 acre tract conveyed to Montauk Innovations LLC by deed of record in Instrument Number 201812130026436, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

BEGINNING at the corner common to said 30.204 acre and 219.255 acre tracts in the westerly right-of-way line of Beech Road (Township Road 88, width varies) and the easterly line of that Conservation Easement of record in Instrument Number 201811270025107;

Thence with the easterly line of said 219.255 acre tract, said easterly easement line, and said westerly right-of-way line, the following courses and distances:

South 00° 12' 44" West, a distance of 271.54 feet to a point; and

South 03° 34' 11" West, a distance of 524.09 feet to the southeasterly corner of said 30.204 acre tract and said Conservation Easement;

Thence North 86° 10' 08" West, with the southerly line of said 30.204 acre tract and said Conservation Easement, a distance of 100.00 feet to a point;

Thence across said 30.204 acre and 219.255 acre tracts, the following courses and distances:

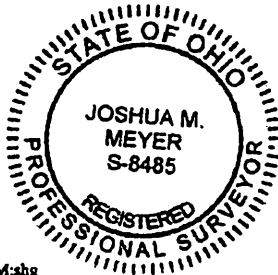
North 03° 34' 11" East, a distance of 520.71 feet to a point; and

North 00° 12' 44" East, a distance of 374.66 feet to the northerly line of said Conservation Easement;

Thence South 86° 25' 30" East, across said 219.255 acre tract with said northerly easement line, a distance of 100.17 feet to said westerly right-of-way line and the easterly line of said 219.255 acre tract;

Thence South 00° 12' 44" West, with said westerly right-of-way line, said easterly line, and said easterly easement line, a distance of 100.17 feet to the POINT OF BEGINNING, containing 2.056 acres, more or less.

Of the above described 2.056 acre, 1.826 acre is from Auditor's Parcel Number 94-106860-00.000 and 0.230 acre is from Auditor's Parcel Number 94-106896-00.000.



EVANS, MECHWART, HAMBLETON & TILTON, INC.


Joshua M. Meyer
Professional Surveyor No. 8485

2-11-2020

Date

JMM:shg
2_056 ac 20200001-VS-ESMT-02.doc



Ernst, Meacham, Hordtman & Tilton, Inc.
 Engineers • Surveyors • Planners • Scientists
 3300 New Albany Road, Columbus, OH 43234
 Phone (614) 778-6200 Toll Free 888-778-5448
 emht.com

EASEMENT

SECTION 25, TOWNSHIP 2, RANGE 15
 UNITED STATES MILITARY DISTRICT
 CITY OF NEW ALBANY, COUNTY OF LICKING, STATE OF OHIO

Date: February 11, 2020

Job No: 2020-0001

Scale: 1" = 100'

MONTAUK INNOVATIONS LLC
 219.255 AC. (DEED)
 I.N. 201812130026436
 P.N. 94-106896-00.000

Northerly line of
 Conservation Easement
 I.N. 201811270025107

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N86°10'08"W	100.00'
L2	S86°25'30"E	100.17'
L3	S00°12'44"W	100.17'

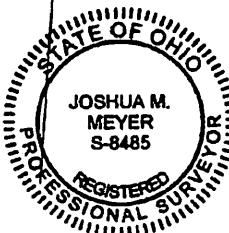
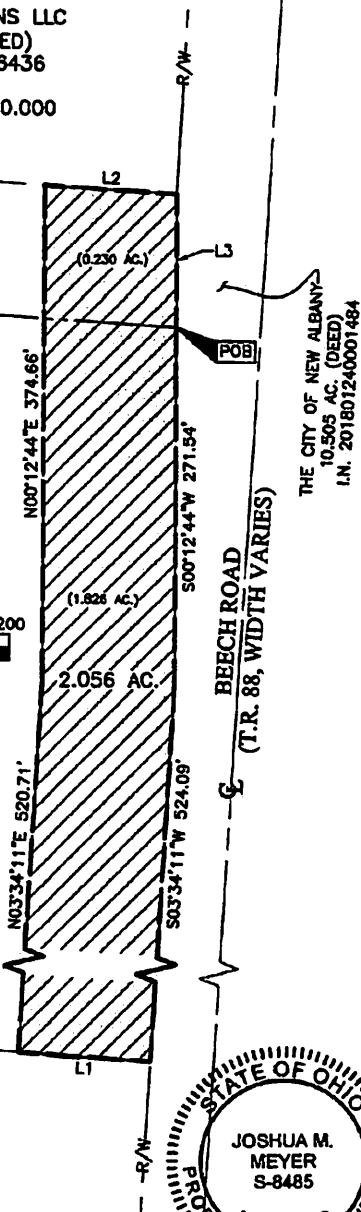


GRAPHIC SCALE (in feet)

MBJ HOLDINGS, LLC
 30.204 AC. (DEED)
 I.N. 200201170002294
 P.N. 94-106860-00.000

Southerly line of
 Conservation Easement
 I.N. 201811270025107

MBJ HOLDINGS, LLC
 9.820 AC. (DEED)
 I.N. 200208150030134
 P.N. 94-106932-01.000



By Joshua M. Meyer
 Professional Surveyor No. 8485

Date: 2-11-2020