



## **ORDINANCE O-26-2021**

**AN ORDINANCE TO APPROVE THE FINAL PLAT FOR 36 SINGLE FAMILY LOTS ON 29.869 +/- ACRES AND ACCEPT RESERVES "A", "B", "C", "E", and "F" FOR NEW ALBANY COUNTRY CLUB SECTION 30 GENERALLY LOCATED NORTH AND WEST OF LAMBTON PARK AND SOUTH OF BRANDON ROAD, AS REQUESTED BY THE NEW ALBANY COMPANY C/O AARON UNDERHILL, ESQ.**

**WHEREAS**, an application to approve the New Albany Country Club section 30 final plat has been submitted; and

**WHEREAS**, Codified Ordinance Chapter 1187 requires approval of the final plat by council; and

**WHEREAS**, the New Albany Planning Commission, after review during a public meeting on June 21, 2021, recommended approval of this final plat (FPL-61-2021); and

**WHEREAS**, the New Albany Country Club section 30 final plat includes approximately 29.869 +/- acres of land to be subdivided into 36 residential lots in addition to the public streets; and

**WHEREAS**, the 29.869 acre New Albany Country Club section 30 final plat includes approximately 6.208 +/- acres of parkland and open space; and

**WHEREAS**, The New Albany Country Club section 30 final plat includes the commitment to dedicate reserves A, B, C, E and F to the city for public parkland and open space; and

**WHEREAS**, New Albany City Council has agreed to the terms and conditions by which this parkland will be donated; and

**WHEREAS**, the city engineer certifies that the New Albany Country Club section 30 final plat meets all the requirements of Chapter 1187 of the Codified Ordinances, stormwater management, design requirements and will meet all other requirements of the city.

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

**Section 1.** The said New Albany Country Club section 30 final plat is attached to this resolution as Exhibit A and made a part herein is approved.

**Section 2.** Council hereby accepts the lands shown on the map attached hereto as Exhibit A, under the terms and conditions outlined and the covenants and restrictions stipulated in the deed and final plat.


**Section 3.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this resolution were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 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 03 day of Aug, 2021.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
Mitchell H. Banchersky  
Law Director

**Legislation dates:**

Prepared:	07/02/2020
Introduced:	07/20/2020
Revised:	
Adopted:	08/03/2021
Effective:	09/03/2021

# Exhibit A - O-26-2021

## NEW ALBANY COUNTRY CLUB SECTION 30

Situated in the State of Ohio, County of Franklin, City of New Albany, and in Quarter Township 3, Township 2, Range 16, United States Military Lands, containing 29.869 acres of land, more or less, said 29.869 acres being comprised of a redivision of Reserve "C" of the subdivision entitled "The New Albany Country Club Section 11", of record in Plat Book 82, Page 72, a redivision of Reserve "C" of the subdivision entitled "The New Albany Country Club Section 15A", of record in Plat Book 84, Page 67, said Reserves being conveyed to THE NEW ALBANY COUNTRY CLUB COMMUNITY ASSOCIATION, INC. by deed of record in Instrument Number 200406080131113, and part of that tract of land conveyed to THE NEW ALBANY COMPANY LLC by deed of record Instrument Number 201009020114191, Recorder's Office, Franklin County, Ohio.

The undersigned, THE NEW ALBANY COUNTRY CLUB COMMUNITY ASSOCIATION, INC. an Ohio not-for-profit corporation, by BRENT B. BRADBURY, Treasurer, and THE NEW ALBANY COMPANY LLC, a Delaware limited liability company, by BRENT B. BRADBURY, Chief Financial Officer, owners of the lands platted herein, duly authorized in the premises, do hereby certify that this plat correctly represents their "NEW ALBANY COUNTRY CLUB SECTION 30", a subdivision containing Lots numbered 1 to 36, both inclusive, and areas designated as Reserve "A", Reserve "B", Reserve "C", Reserve "D", Reserve "E" and Reserve "F", do hereby accept this plat of same and dedicate to public use, as much, all of Engleman Grant, Head of Pond Court and Head of Pond Road.

Easements are hereby reserved in, over and under areas designated on this plat as "Easement" or "Drainage Easement". Each of the aforementioned designated easements permit the construction, operation and maintenance of all public and quasi-public utilities above, beneath, and on the surface of the ground and, where necessary, for the construction, operation and maintenance of service connections to all adjacent lots and lands and for storm water drainage. No building shall be constructed in any area over which easements are hereby reserved. Within these areas designated "Drainage Easement" on this plat, an additional easement is hereby reserved for the purpose of constructing, operating and maintaining major storm water drainage swales and/or other above ground storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas as delineated on this plat unless approved by the City of New Albany Engineer. Easement areas shown herein outside of the platted area are within lands owned by the undersigned and easements are hereby reserved therein for the uses and purposes as expressed herein.

In Witness Whereof, BRENT B. BRADBURY, Treasurer of THE NEW ALBANY COUNTRY CLUB COMMUNITY ASSOCIATION, INC. has hereunto set his hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed and Acknowledged  
In the presence of: THE NEW ALBANY COUNTRY CLUB COMMUNITY ASSOCIATION, INC.

By BRENT B. BRADBURY,  
Treasurer

STATE OF OHIO  
COUNTY OF FRANKLIN ss:

Before me, a Notary Public in and for said State, personally appeared BRENT B. BRADBURY, Treasurer of THE NEW ALBANY COUNTRY CLUB COMMUNITY ASSOCIATION, INC., who acknowledged the signing of the foregoing instrument to be his voluntary act and deed and the voluntary act and deed of said THE NEW ALBANY COUNTRY CLUB COMMUNITY ASSOCIATION, INC. for the uses and purposes expressed herein.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My commission expires \_\_\_\_\_  
Notary Public, State of Ohio

In Witness Whereof, BRENT B. BRADBURY, Chief Financial Officer of THE NEW ALBANY COMPANY LLC, has hereunto set his hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed and Acknowledged  
In the presence of: THE NEW ALBANY COMPANY LLC

By BRENT B. BRADBURY,  
Chief Financial Officer

STATE OF OHIO  
COUNTY OF FRANKLIN ss:

Before me, a Notary Public in and for said State, personally appeared BRENT B. BRADBURY, Chief Financial Officer of THE NEW ALBANY COMPANY LLC, who acknowledged the signing of the foregoing instrument to be his voluntary act and deed and the voluntary act and deed of said THE NEW ALBANY COMPANY LLC for the uses and purposes expressed herein.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My commission expires \_\_\_\_\_  
Notary Public, State of Ohio

Approved this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_  
Mayor, New Albany, Ohio

Approved this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_  
City Engineer, New Albany, Ohio

Approved this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_  
Council Representative to Planning Commission, New Albany, Ohio

Approved this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_  
Chairperson, Planning Commission, New Albany, Ohio

Approved this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_  
Finance Director, New Albany, Ohio

Approved and accepted by Resolution No. \_\_\_\_\_, passed \_\_\_\_\_, by the Council for the City of New Albany, Ohio. Approval of this plat shall become null and void unless recorded prior to \_\_\_\_\_, 20\_\_.

Transferred this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
Auditor, Franklin County, Ohio

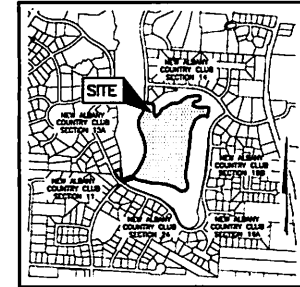
Deputy Auditor, Franklin County, Ohio

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ M. For \$ \_\_\_\_\_  
Recorder, Franklin County, Ohio

File No. \_\_\_\_\_

Recorded this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_  
Deputy Recorder, Franklin County, Ohio

Plat Book \_\_\_\_\_, Page \_\_\_\_\_



LOCATION MAP AND BACKGROUND DRAWING  
NOT TO SCALE

### SURVEY DATA:

**BASES OF BEARINGS:** The bearings shown herein are based on the same meridian as the bearings shown on the subdivision plat entitled "New Albany Country Club Section 11", of record in Plat Book 76, Pages 54 and 55, Recorder's Office, Franklin County, Ohio. On said plat of record, a portion of the centerline of Vanhook Drive is shown as having a bearing of North 12°54' 44" East.

**SOURCE OF DATA:** The sources of recorded survey data referenced in the plan and text of this plat are the records of the Recorder's Office, Franklin County, Ohio.

**IRON PINS:** Iron pins, where indicated herein, unless otherwise noted, are to be one-inch diameter, thirty-inch long, solid iron pins, are to be set to monument the points indicated and are to be set with the top and flush with the surface of the ground and then capped with an aluminum cap stamped EMHT INC. Once installed, the top of the cap shall be marked (punched) to record the actual location of the point. These markers shall be set following the completion of the construction/installation of the street pavements and utilities and prior to the City of New Albany, Ohio's acceptance of these infrastructure improvements. The New Albany, Ohio, Municipal Engineer shall be notified in writing when the markers are in place.

**PERMANENT MARKERS:** Permanent markers, where indicated herein, are to be one-inch diameter, thirty-inch long, solid iron pins, are to be set to monument the points indicated and are to be set with the top and flush with the surface of the ground and then capped with an aluminum cap stamped EMHT INC. Once installed, the top of the cap shall be marked (punched) to record the actual location of the point. These markers shall be set following the completion of the construction/installation of the street pavements and utilities and prior to the City of New Albany, Ohio's acceptance of these infrastructure improvements. The New Albany, Ohio, Municipal Engineer shall be notified in writing when the markers are in place.

### SURVEYED & PLATTED BY



We do hereby certify that we have surveyed the above premises, prepared the attached plat, and that said plat is correct, all dimensions are in feet and decimal parts thereof.

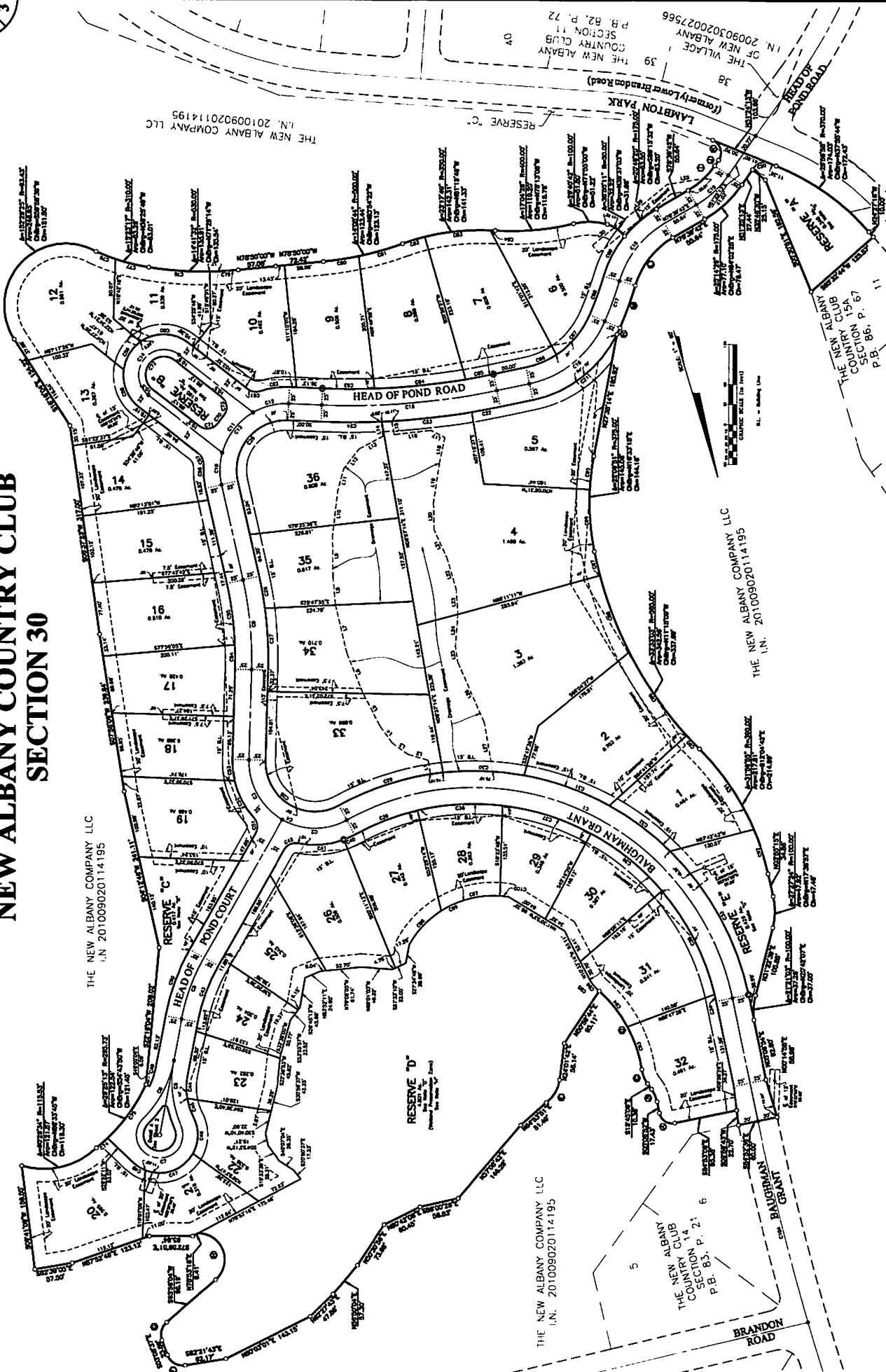
- = Iron Pin (See Survey Data)
- = MAG Nail to be set
- ⊙ = Permanent Marker (See Survey Data)

By \_\_\_\_\_ Professional Surveyor No. 7863 Date \_\_\_\_\_



# NEW ALBANY COUNTRY CLUB SECTION 30

THE NEW ALBANY COMPANY LLC  
I.N. 201009020114195



THE NEW ALBANY COMPANY LLC  
I.N. 201009020114195

THE NEW ALBANY COUNTRY CLUB  
SECTION 14  
SECTION P. 21  
P.B. 83, P. 72

THE NEW ALBANY COMPANY LLC  
I.N. 201009020114195

THE NEW ALBANY COUNTRY CLUB  
SECTION 11  
P.B. 82, P. 72

THE NEW ALBANY COUNTRY CLUB  
SECTION 15A  
SECTION P. 67  
P.B. 86, P. 72



**ORDINANCE O-27-2021**

**AN ORDINANCE TO ACCEPT A 3.262 ACRE ENVIRONMENTAL COVENANT AREA AS REQUESTED BY THE NEW ALBANY COMPANY, LLC**

**WHEREAS**, The New Albany Company, LLC "the Owner" is the owner of certain real property, which contains the Covenant Area and is situated in Franklin County, Ohio, in the Blacklick Creek Watershed; and,

**WHEREAS**, the City of New Albany has proposed to construct a certain project on other certain real property, located within Franklin County, Ohio, ("Project"), which impacts certain surface water features located on the property and approvals for the project required that City of New Albany, Ohio obtain permits from the Ohio EPA and U.S. Army Corps of Engineers; and,

**WHEREAS**, in order to mitigate such impacts and as a condition of the environmental permits, the Ohio EPA and U.S. Army Corps of Engineers have required that City of New Albany obtain mitigation property and protect this property in perpetuity with an environmental covenant; and,

**WHEREAS**, the city will be the recipient (Holder) of the environmental covenant area totaling 3.262 acres; and,

**WHEREAS**, the city will benefit from this dedication of environmental covenant area.

**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 environmental covenant area totaling 3.262 acres as described and depicted on Exhibit A.

**Section 2.** It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of 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.

**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 03 day of Aug, 2021.

Attest:

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

Approved as to form:

  
Mitchell H. Banchevsky  
Law Director

**Legislation dates:**

Prepared: 07/09/2021

Introduced: 07/20/2021

Revised:

Adopted: 08/03/2021

Effective: 09/02/2021

**To be recorded with Deed  
Records - R.C. Section 317.08**

**ENVIRONMENTAL COVENANT**

This Environmental Covenant ("Covenant") is entered into pursuant to Ohio Revised Code ("R.C.") Sections 5301.80 to 5301.92 by The New Albany Company, LLC, a Limited Liability Company (the "Owner"), having an address of 8000 Walton Parkway, Suite 120, New Albany, Ohio 43054 and the City of New Albany, Ohio, a municipal corporation (the "Holder"), having an address of 99 W Main St, New Albany, Ohio 43054, and the Ohio Environmental Protection Agency ("Ohio EPA"), as a non-holder agency, for the purpose of subjecting certain property ("the Covenant Area") to the activity and use limitations set forth herein.

**WHEREAS**, the Owner is the owner in fee of certain real property, which contains the Covenant Area and is situated in Franklin County, Ohio, in the Blacklick Creek watershed;

**WHEREAS**, the City of New Albany, Ohio has proposed to construct a certain project on certain other real property, located in Franklin County, Ohio ("Project"), which Project impacts certain surface water features located on the City of New Albany, Ohio property and the approvals for which project required that City of New Albany, Ohio obtain 401 water quality certification (401 WQC) pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341 from Ohio EPA and 404 permit coverage from the Army Corps of Engineers (the "Army Corps");

**WHEREAS**, in order to mitigate such impacts on the City of New Albany, Ohio property and as a condition of being issued the 401 WQC and 404 permit, Ohio EPA ID No. 207094A (401 WQC and 404 permit), the Ohio EPA and Army Corps have required that City of New Albany, Ohio obtain mitigation property and to protect this property in perpetuity with an environmental covenant;

**WHEREAS**, to meet the conditions in the 401 WQC and 404 permit, City of New Albany, Ohio has entered into an agreement with the Owner which provides, among other things, that City of New Albany, Ohio will construct and implement the mitigation



requirements contained in the 401 WQC and 404 permit and the mitigation plan on a specific area ("the Covenant Area") of the Owner's property;

**WHEREAS**, the Covenant Area possesses substantial value in conserving and protecting the physical, biological and chemical integrity of Wetland B, a Category 3 wetland and is important in the protection of the existing or designated use of the waters of the state pursuant to § 303 of the Clean Water Act, 33 U.S.C. § 1313 and § 6111.041 of the Ohio Water Pollution Control Act. The specific conservation values (hereinafter "Conservation Values") of the Covenant Area have been documented in a document entitled "BCTS: Part 2B & Part 3, Section 401 WQC Application & BCTS: Phase 2B & Phase 3 Nationwide Permit Application, Proposed City of New Albany, Ohio project, Plain Township, Franklin, Ohio, November 24, 2020 & September 28, 2020" (the "Permit Application Documents").

**WHEREAS**, City of New Albany, Ohio proposes to fulfill its obligation to ensure the Covenant Area and the Covenant Area's Conservation Values are protected in perpetuity by this Covenant.

Now therefore, Owner and Holder and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to R.C. Sections' 5301.80 to 5301.92.

2. Covenant Area. The Covenant Area is an approximately 3.262 acre tract of real property; located at in the SE corner of parcel ID: 222-004970-00, in Franklin County, Ohio, and more particularly described in Exhibit A [legal description of the parcel(s)], Exhibit B [metes and bounds survey], Exhibit C [aerial image with covenant boundary] attached hereto and hereby incorporated by reference herein ("the Covenant Area").

3. The Owner is the fee simple owner of the Covenant Area.

4. The Holder is the holder of this Covenant.

5. Activity and Use Limitations. As part of the conditions set forth in the 401 WQC and 404 Permit issued to City of New Albany, Ohio and given the conservation values of the Covenant Area, the Owner hereby imposes and agrees to comply with the following activity and use limitations on the Covenant Area:

Division: Any division or subdivision of the Covenant Area is prohibited;

Commercial Activities: Commercial development or industrial activity on the Covenant Area is prohibited;

Construction: The placement or construction of any man-made modifications such as buildings, structures, fences, roads and parking lots on the Covenant Area is prohibited, other than construction activities that are authorized by the Permit Application Documents approved by the Ohio EPA;

Cutting and Other Control of Vegetation: Any cutting of trees, ground cover or vegetation, or destroying by means of herbicides or pesticides on the Covenant Area is prohibited, other than the removal or control of invasive and noxious species and control activities that are authorized by the Permit Application Documents approved by the Ohio EPA;

Land Surface Alteration: The removal of soil, sand, gravel, rock, minerals or other materials from the Covenant Area, or doing any act that would alter the topography of the Property shall be prohibited;

Dumping: Waste, garbage and unsightly or offensive materials are not permitted and may not be accumulated on the Covenant Area; and

Water Courses: Natural water courses and streams and adjacent riparian buffers may not be dredged, straightened, filled, channelized, impeded, diverted or otherwise altered on the Covenant Area, other than as part of activities that are authorized by the Permit Application Documents approved by the Ohio EPA.

Recreational Trails and Vehicles: Recreational uses that disturb or compact the soils or destroy or inhibit growth of vegetation are prohibited;

Utilities: Construction of utilities on the Covenant Area shall be prohibited. Underground or above-ground utilities may only be constructed if no other alternative is available and Ohio EPA has approved the exception;

Other Activities: Each and every other activity or construction project which might endanger the natural, scenic, biological, ecological integrity of the Covenant Area shall be prohibited, other than as part of activities that are authorized by the Permit Application Documents approved by the Ohio EPA.

6. Running with the Land. This Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to R.C. Section 5301.85, subject to amendment or termination as set forth herein. The term "Transferee" as used in this Covenant, shall mean any future owner of any interest in the Covenant Area or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Compliance Enforcement. Compliance with this Covenant may be enforced pursuant to R.C. Section 5301.91 or other applicable law. Failure to timely enforce compliance with this Covenant or the use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any provision of this Covenant. Nothing in this Covenant shall restrict the Director of Ohio EPA from exercising any authority under applicable law in order to protect public health or safety or the environment.

8. Rights of Access. Owner hereby grants to Ohio EPA, its agents, contractors, and employees and the Holder or its agents the right of access to the Covenant Area in connection with the implementation or Enforcement of this Covenant.

9. Compliance Reporting. Owner and any Transferee shall submit to Ohio EPA, upon request by the Ohio EPA, written documentation verifying that the activity and use limitations remain in place and are being complied with.

10. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Covenant Area or any portion of the Covenant Area shall contain a notice of the activity and use limitations set forth in this Covenant, and provide the recorded location of this Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED\_\_\_\_\_, 20\_\_\_\_, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE \_\_\_\_\_ COUNTY RECORDER ON \_\_\_\_\_, 20\_\_\_\_, IN [DOCUMENT \_\_\_\_\_, or BOOK\_\_\_\_, PAGE \_\_\_\_]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

[In the notice, restate the activity and use restrictions from Paragraph 5 of this Covenant]

Owner shall notify Ohio EPA within ten (10) days after each conveyance of an interest in any portion of the Covenant Area. Owner's notice shall include the name, address and telephone number of the Transferee, and a copy of the original document that imposed restrictions on the Covenant Area.

11. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- a. that the Owner is the sole owner of the Covenant Area;
- b. that the Owner holds fee simple title to the Covenant Area that is free, clear and unencumbered and, for example, is not subject to any utility,

road or other easement;

- c. that the Owner has the power and authority to enter into this Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder; and
- d. that this Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

12. Amendment or Termination. This Covenant may be amended or terminated only by consent of all of the following: the Owner or a Transferee, the Holder[s], and the Ohio EPA, pursuant to R.C. 5301.89 or 5301.90 and other applicable law. "Amendment" means any changes to the Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations when there is at least one limitation remaining. "Termination" means the elimination of all activity and use limitations set forth herein and all other obligations under this Covenant. Amendment or termination shall not affect City of New Albany, Ohio obligations pursuant to the 401 WQC and 404 permit.

This Covenant may be amended or terminated only by a written instrument duly executed by the Director of Ohio EPA, the Holder[s], and the Owner[s] or Transferee[s] of the Covenant Area or portion thereof, as applicable. Within thirty (30) days of signature by all requisite parties on any amendment or termination of this Covenant, the Owner[s] or Transferee[s] shall file such instrument for recording with the Franklin County Recorder's Office, and shall provide a true copy of the recorded instrument to Ohio EPA.

13. Severability. If any provision of this Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

14. Governing Law. This Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

15. Recordation. Within thirty (30) days after the date of the final required signature upon this Covenant, the Owner shall file this Covenant for recording, in the same manner as a deed to the property, with the Franklin County Recorder's Office.

16. Effective Date. The effective date of this Covenant shall be the date upon which the fully executed Covenant has been recorded as a deed record for the Covenant Area with the Franklin County Recorder.

17. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Covenant to Ohio EPA;

18. Notice. Unless otherwise notified in writing by or on behalf of the current owner or Ohio EPA, any document or communication required by this Covenant shall be submitted to:

Ohio EPA  
Division of Surface Water  
Mitigation Compliance  
P.O. Box 1049  
Columbus, Ohio 43216-1049

19. Counterparts. This Covenant may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Covenant.

The undersigned representative of the Owner and Holder represent and certify that they are authorized to execute this Covenant.

This document was prepared by the Ohio EPA and: **The City of New Albany.**

**IT IS SO AGREED:**

**OWNER:**

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

William Ebbing

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

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

State of Ohio

)

)

ss:

County of Franklin

)

Before me, a notary public, in and for said county and state, personally appeared, \_\_\_\_\_, a duly authorized representative of \_\_\_\_\_, who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

**HOLDER:**

By: \_\_\_\_\_  
Joseph F. Stefanov

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

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

State of Ohio )  
County of Franklin ) ss:

Before me, a notary public, in and for said county and state, personally appeared, \_\_\_\_\_, a duly authorized representative of \_\_\_\_\_, who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of \_\_\_\_\_.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

By: \_\_\_\_\_  
Laurie A. Stevenson, Director

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

State of Ohio )  
County of Franklin ) ss:

Before me, a notary public, in and for said county and state, personally appeared,  
Laurie A. Stevenson, the Director of Ohio EPA, who acknowledged to me that she did  
execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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



**Exhibit A**  
**Legal Description of Property**

**ENVIRONMENTAL COVENANT AREA  
3.262 ACRES**

Situate in the State of Ohio, County of Franklin, City of New Albany, lying in Quarter Township 4, Township 2, Range 16, United States Military District, being on, over, and across that 26.169 acre tract conveyed to New Albany Powergrid LLC by deed of record in Instrument Number 201903130028215, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) being more particularly described as follows:

Beginning, for reference, in the line common to said Franklin and Licking Counties, at the northerly common corner of said 26.169 acre tract and that 35.000 acre tract conveyed to Columbus Southern Power Company by deed of record in Instrument Number 200603160007394 (Licking County Recorder);

Thence South 03° 41' 47" West, with said County line, the line common to said 26.169 and 35.000 acre tracts, a distance of 847.19 feet to the easterly common corner of said 26.169 acre tract and that 25.849 acre tract conveyed to Abercrombie & Fitch Management Co. by deed of record in Instrument Number 201012230175458;

Thence North 85° 55' 23" West, with the line common to said 26.169 and 25.849 acre tracts, a distance of 28.22 feet to the TRUE POINT OF BEGINNING;

Thence North 85° 55' 23" West, with said common line, a distance of 617.62 feet to a point;

Thence across said 26.169 acre tract, the following courses and distances:

North 04° 04' 37" East, a distance of 68.00 feet to a point;

North 52° 45' 15" East, a distance of 345.02 feet to a point;

South 69° 31' 29" East, a distance of 86.55 feet to a point;

South 77° 38' 30" East, a distance of 79.93 feet to a point;

North 82° 21' 53" East, a distance of 46.89 feet to a point;

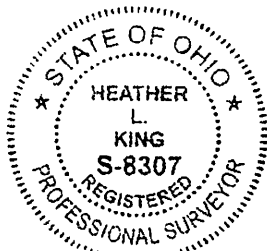
North 78° 35' 37" East, a distance of 65.11 feet to a point;

North 85° 16' 16" East, a distance of 31.09 feet to a point;

North 73° 17' 16" East, a distance of 40.84 feet to a point;

South 03° 41' 47" West, a distance of 283.61 feet to a point; and

South 32° 58' 15" East, a distance of 28.10 feet to the TRUE POINT OF BEGINNING, containing 3.262 acres, more or less.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

*Heather L. King* 5/3/21

Heather L. King  
Professional Surveyor No. 8307

**Exhibit B**  
**Metes and Bounds Survey**



**Exhibit C**  
**Aerial Image of Covenant Area**





## **RESOLUTION R-34-2021**

### **A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO APPROVE AND SIGN AGREEMENTS WITH VTRE DEVELOPMENT, 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, No. R-37-2019 adopted August 6, 2019, and No. R-15-2021 adopted April 6, 2021 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", "Central College Road Area", "Jug Street North", and "Jug Street South" 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 of New Albany 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**, VTRE Development, 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 Eastland-Fairfield Career & Technical Schools has been notified in accordance with the applicable law; and

**WHEREAS**, the Boards of Education of the New Albany-Plain Local School District has waived their right to receive notice under Section 5709.83 of the Revised Code in accordance with its respective compensation agreements entered into with the city of 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 CRA Agreement by and between the City and the Company, in the form presently on file in the New Albany Community Development Department, which Agreement provides for a 100% CRA exemption for up to 15-years for the proposed project, 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.

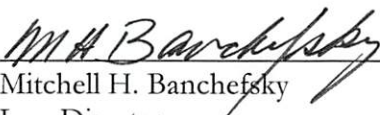
**CERTIFIED AS ADOPTED** this 03 day of Aug, 2021.

**Attest:**

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared: 07/09/2021

Introduced: 07/20/2021

Revised:

Adopted: 08/03/2021

Effective: 08/03/2021





## **RESOLUTION R-35-2021**

### **A RESOLUTION TO WAIVE THE COMPETITIVE BIDDING REQUIREMENT FOR THE PURCHASE OF NEW POLICE RADIOS AND THE UPGRADE OF SOFTWARE FOR EXISTING POLICE RADIOS THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM**

**WHEREAS**, the city requires five new, mobile (vehicle mounted) police radios to replace radios that have reached the end of their useful life; and

**WHEREAS**, the city requires five new, portable (body worn) police radios for current and future police officers; and

**WHEREAS**, the existing police radios require software upgrades to enable the police department to utilize a third radio channel that has been assigned to the city; and

**WHEREAS**, the city utilizes Motorola radios which are available through the State of Ohio Cooperative Purchasing Program; and

**WHEREAS**, B&C Communications is an authorized vendor for Motorola through the State of Ohio Cooperative Purchasing Program; and

**WHEREAS**, Section 9.04(C) of the New Albany Charter permits council to waive the city's competitive bidding requirement if council determines that the waiver of the competitive bidding requirement is in the best interest of the city.

**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's competitive bidding requirement is hereby waived per Section 9.04(C) of the New Albany Charter, in order to facilitate the purchase of new police radios through the State of Ohio Cooperative Purchasing Program, which is a cost effective, state approved alternative to the traditional, competitive bidding process.

**Section 2.** The city manager is hereby authorized to enter into contracts with B&C Communications for the purchase of five mobile radios and five portable radios for approximately \$62,000.

**Section 3.** The city manager is authorized to enter into contracts with B&C Communications for software updates to existing radios for approximately \$29,000.

**Section 4.** The total amount of the combined contracts shall not exceed \$91,000.

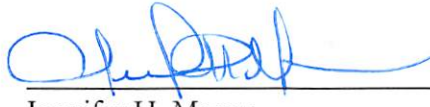
**Section 5.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**Section 6.** Pursuant to Article 6.07(A) of the New Albany Charter, this resolution shall take effect upon adoption.

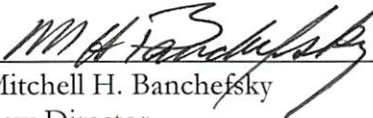
**CERTIFIED AS ADOPTED** this 03 day of August, 2021.

**Attest:**

  
Sloan T. Spalding  
Mayor

  
Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

  
Mitchell H. Banchefsky  
Law Director

**Legislation dates:**

Prepared:	07/20/2021
Introduced:	08/03/2021
Revised:	
Adopted:	08/03/2021
Effective:	08/03/2021



## **RESOLUTION R-36-2021**

### **A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A MANAGEMENT SERVICES AGREEMENT WITH THE COLUMBUS ASSOCIATION FOR THE PERFORMING ARTS (CAPA) AND THE BOARD OF THE JEANNE B. MCCOY COMMUNITY CENTER FOR THE ARTS TO OBTAIN MANAGEMENT SERVICES IN SUPPORT OF THE OPERATION OF THE CHARLEEN AND CHARLES HINSON AMPHITHEATER**

**WHEREAS**, the City of New Albany will assume ownership of The Charleen and Charles Hinson Amphitheater from the New Albany Community Authority upon the completion of its construction in July of 2021; and

**WHEREAS**, the city wishes to enter into a Management Services Agreement with The Columbus Association for the Performing Arts (CAPA) and the Board of The Jeanne B. McCoy Community Center for the Arts to manage the operation of the amphitheater including, but not limited to, the coordination of the events calendar, event facilitation, and technical support as described in the Management Agreement attached hereto; and

**WHEREAS**, The Columbus Association for the Performing Arts (CAPA) and the Board of The Jeanne B. McCoy Community Center for the Arts have effectively managed the Jeanne B. McCoy Community Center for the Arts and, as such, are well positioned to manage the Charleen and Charles Hinson Amphitheater; and

**WHEREAS**, the common management of both facilities will benefit the city in terms of scheduling/event coordination, technical support for performances, and operational cost effectiveness.

**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 enter into a Management Services Agreement with CAPA and the Board of the Jeanne B. McCoy Community Center for the Arts in a form that is substantially similar to that which is attached to this resolution as Exhibit A, for the operation and management of the Charleen and Charles Hinson Amphitheater.

**Section 2:** The Management Agreement will replace the non-binding Memorandum of Understanding that was authorized by council by Resolution R-50-2019 on October 1, 2019 and executed by the parties.

**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.

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


CERTIFIED AS ADOPTED this 03 day of Aug, 2021.

Attest:

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

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

Approved as to form:

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

**Legislation dates:**

Prepared:	07/15/2021
Introduced:	08/03/2021
Revised:	
Adopted:	08/03/2021
Effective:	08/03/2021

**Exhibit A – R-36-2021**

**AGREEMENT FOR THE PROVISION OF  
MANAGEMENT SERVICES FOR THE HINSON AMPHITHEATRE  
TO  
THE CITY OF NEW ALBANY  
BY  
THE COLUMBUS ASSOCIATION FOR THE PERFORMING ARTS  
AND  
THE MCCOY CENTER FOR THE ARTS**

This Agreement ("Agreement") entered into effective as of the \_\_\_\_ day of August, 2021, by and between The City of New Albany, Ohio, a municipal corporation and political subdivision organized and existing pursuant to its charter and the laws of the State of Ohio whose principal office is located at 99 W. Main Street, New Albany, Ohio 43054 ("City"), the Columbus Association for the Performing Arts, an Ohio nonprofit corporation whose principal office is located at 55 East State Street, Columbus, Ohio 43215-4264 ("CAPA"), and the Jeanne B. McCoy Community Center for the Arts, an Ohio nonprofit corporation whose principal office is located at 30 West Main Street, New Albany, Ohio 43054 ("McCoy Center").

**WITNESSETH:**

**WHEREAS**, the City desires to engage CAPA and McCoy Center to provide certain management services to the City in support of the Hinson Amphitheatre being constructed in proximity of the McCoy Center Theatre Complex in New Albany, OH ("Amphitheatre");

**WHEREAS**, CAPA and McCoy Center are willing and able to provide such services to the City;

**WHEREAS**, CAPA and McCoy Center shall be collectively referred to as "Managers";

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the City, CAPA, and McCoy Center hereby agree as follows:

1. **Engagement.** Subject to the terms and conditions set forth in this Agreement, the City hereby engages Managers to provide management services to the City as set forth herein and described in Appendix A; and Contractors hereby accept such engagement.
2. **Services to be Provided.** Managers shall be the provider of services as laid out in APPENDIX A. Such services shall be applicable to activities on the Amphitheatre premises and shall not extend to events, activities, or performances on other City property unless mutually agreed to by all parties to this Agreement. Services provided under this Agreement will in no way diminish or alter the responsibilities of the Managers as obligated by the Second Amended and Restated Joint Operating Agreement for the New Albany Community Arts Center.

Managers shall use their professional expertise to provide guidance to the City on industry standards and best practices in regard to operation of an outdoor live entertainment venue, but final authority over all matters, to include operational and safety/security protocols, pertaining to the Amphitheatre rests with the City. In the event that the City disregards the professional guidance provided by the Managers in a manner that creates an illegal or obviously unsafe situation, Managers may refuse to provide services at the Amphitheatre until such illegal or obviously unsafe situation is remedied.

The Managers will coordinate the calendar of events at the Hinson Amphitheatre as outlined in APPENDIX A, but the City will retain final decision making authority over the suitability of acts, events, and programs. The City may, at its sole discretion, prevent the presentation of any acts, events, or programs at the Hinson Amphitheatre and Managers will enforce such actions by the City.

3. **Scope of Services.** The services and responsibilities of Managers outlined in this Agreement and in Appendix A are applicable during Amphitheatre events including time necessary in advance to prepare for events and time after to restore following such events. The City may decide to make the Amphitheatre available to the public during non-event hours; in this event the Managers are not responsible for operating or monitoring the Amphitheatre during such times.
4. **Term.** The term of this Agreement shall commence on May 1, 2021 and will renew for successive one-year terms unless any party provides ninety (90) days notice of their intent not to renew the Agreement or unless otherwise terminated in accordance with this paragraph.

Any party may terminate this Agreement with cause effective ninety (90) days after giving notice of such termination to the other parties. The written notice shall specify the nature of the breach and the section of this Agreement alleged to have been breached. Following such notification, the parties will confer to attempt to work in good faith to resolve their disputes.

If the parties cannot resolve their disputes, the parties will work together to effectuate a smooth transition of responsibilities.

5. **Fee for Services.** For the services provided to the City by McCoy Center as outlined in Appendix A, the City shall pay to McCoy Center a fee of XXXX Dollars (\$XX,XXX) for the first one-year term, to increase 3% annually thereafter in the event of successive terms. These fees shall be paid in two equal installments at approximately June 1<sup>st</sup> and September 1<sup>st</sup> of each year.

For the services provided to the City by CAPA as outlined in Appendix A, the City shall pay to CAPA a fee of XXXX Dollars (\$XX,XXX) for the first one-year term, to increase 3% annually thereafter in the event of successive terms. These fees shall be paid in two equal installments at approximately June 1<sup>st</sup> and September 1<sup>st</sup> of each year.

6. **Billable Services and Reimbursement of Expenses.** In order to ensure professional and high quality operations at the Amphitheatre, Managers' staff may work on behalf of Amphitheatre renters on a billable basis, and Managers may rent certain specialized entertainment venue equipment to Amphitheatre renters. In such situations, Managers retain the right to charge reasonable and customary rates to Amphitheatre renters for such services.

Managers may incur expenses required to provide for the safe and effective operations of the amphitheatre with the prior approval of the City. The City shall reimburse Managers for such reasonable expenses, subject to adherence with a reasonable approval and reimbursement process to be implemented by the City.

7. **Right to Audit.** Each party hereto shall have the right to audit, at all reasonable times, the other party's books and records to determine such other party's compliance with the provisions of this Agreement.
8. **Assignment.** No party hereto shall assign or subcontract all or any part of its rights or obligations under this Agreement without all other party's express prior written approval, and any attempt to do so shall be null and void and of no force or effect whatsoever.
9. **Force Majeure.** In the event Managers are unable to carry out their obligations under this Agreement due to an act of God, fire, flood, explosion, war, strike, lock-out, labor dispute, civil disturbance, accident or government action, the failure to so perform shall be excused during the intervention of such *force majeure* event.

10. Limitation of Liability. Managers shall not have any liability arising out of or in connection with this Agreement except for its gross negligence or willful misconduct in respect of the services provided under this Agreement. Managers shall not be liable for any special or consequential damages, and any liability of Managers shall not exceed the fees paid to Managers under this Agreement. The Managers will ensure that Artist and renter contracts include a provision that gives Managers and the City the right to seek damages for intentional or negligent damage.
11. Manager's Operations of its Own Businesses. Throughout the term of this Agreement, Managers shall be permitted to operate its businesses just as if this Agreement did not exist, and, except as expressly set forth in this Agreement, no legal business activity by Managers in the operation of its businesses shall constitute a breach of this Agreement.
12. Severability. If any provision of this Agreement or its application to any person or in any circumstances shall be invalid or unenforceable, the other provisions of the Agreement shall not be affected by such invalidity or unenforceability.
13. No Waiver. No waiver by any party hereto of any breach by any other party of any term, covenant or condition of this Agreement shall be deemed a waiver of any other breach (whether prior or subsequent) of the same or any other term, covenant or condition of this Agreement.
14. Headings. The headings used in this Agreement are for reference only and shall not limit or control any term or provision of this Agreement or the interpretation or construction thereof.
15. Relationship of the Parties Hereto. CAPA's and McCoy Center's status under this Agreement shall be that of independent contractors and not that of an employee of the City.
16. Representations and Warranties. Each party hereto represents and warrants that it is free to enter into this Agreement and is not subject to any conflicting obligations or any disability which would interfere with its execution or performance of this Agreement, and that it has the full right, power and authority to enter into this Agreement and to grant all rights and perform all services provided for herein.
17. Governing Law. The laws of the State of Ohio shall govern the validity, interpretation, construction, and performance of this Agreement and any claims arising therefrom.

**IN WITNESS WHEREOF,** the City, CAPA and McCoy Center have executed this Agreement as of the day and year first above written.



THE CITY OF NEW ALBANY, OHIO

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

Joseph Stefanov  
City Manager

COLUMBUS ASSOCIATION FOR THE PERFORMING ARTS

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

Chad Whittington  
President & CEO

JEANNE B. MCCOY CENTER FOR THE PERFORMING ARTS

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

Jennie Wilson  
Board Chair



## **RESOLUTION R-37-2021**

### **A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A ROAD MAINTENANCE AGREEMENT WITH THE LICKING COUNTY BOARD OF COMMISSIONERS FOR THE MAINTENANCE OF JUG STREET ROAD**

**WHEREAS**, Section 5535.01 of the Ohio Revised Code requires that county roads be maintained by the board of county commissioners; and

**WHEREAS**, Section 301.15 of the Ohio Revised Code provides that a board of county commissioners may enter into agreements with the legislative authority of any municipal corporation whereby the legislative authority of any municipal corporation undertakes, and is authorized by the board of county commissioners, to exercise any power, perform any function, or render any service, on behalf of the county or the board, that the county or the board may exercise, perform or render; and

**WHEREAS**, the Licking County Board of Commissioners requires municipalities to enter into a Road Maintenance Agreement when the annexation of land to the municipality causes a roadway or a section thereof to be divided between two political jurisdictions along its center line; and

**WHEREAS**, the pending annexation of approximately 164.78+/- acres of land located south of Jug Street Road and west of Mink Street, causes a section of Jug Street Road to be divided between the City of New Albany and Licking County along the center lines of the roadway; and

**WHEREAS**, the City of New Albany and the Licking County Board of Commissioners previously entered into a Road Maintenance Agreement in December, 2018, stipulating the maintenance responsibilities of the parties for the section of Jug Street Road located between the Franklin County Line and Harrison Road; and

**WHEREAS**, if approved, the pending annexation would expand New Albany's road maintenance responsibilities beyond the eastern limits of the current agreement.

**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 enter into a Roadway Maintenance Agreement; (substantially similar in its effect as that which is attached hereto as Exhibit A) with the Licking County Board of Commissioners. Said agreement shall supersede the current agreement which was authorized by council through the adoption of Resolution R-49-2018 on December 10, 2018.

**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 03 day of August, 2021.

**Attest:**

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

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

**Approved as to form:**

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

**Legislation dates:**

Prepared:	07/16/2021
Introduced:	08/03/2021
Revised:	
Adopted:	08/03/2021
Effective:	08/03/2021

## **EXHIBIT A – R-37-2021**

### **AGREEMENT**

#### **FOR MAINTENANCE AND IMPROVEMENT OF JUG STREET ROAD**

THIS ROAD MAINTENANCE AGREEMENT (“Agreement”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of New Albany, Ohio, an Ohio Municipal Corporation (“New Albany”) and the Board of Commissioners of Licking County, Ohio, a political subdivision of the State of Ohio (“Licking County”). It shall succeed and replace the prior Jug Street Road Maintenance Agreements approved by the Licking County Board of Commissioners on the 31st day of January, 2019, the 6th day of February, 2018, and the 16<sup>th</sup> day of June, 2016, through resolutions 98-174, 93-376 and 85-106 respectively, New Albany and Licking County are referred to individually herein as “Party” and collectively as “Parties.”

### **WITNESSETH**

In consideration of the terms and conditions hereinafter stated, the Parties agree as follows:

#### **SECTION 1: AUTHORITY**

Section 5535.01 of the Ohio Revised Code requires that county roads be maintained by the board of county commissioners.

Section 307.15 of the Ohio Revised Code provides that a board of county commissioners may enter into agreements with the legislative authority of any municipal corporation whereby the legislative authority of any municipal corporation undertakes, and is authorized by the board of county commissioners, to exercise any power, perform any function, or render any service, on behalf of the county or the board, that the county or the board may exercise, perform, or render.

#### **SECTION 2: PURPOSE**

Jug Street Road is a county road located in Licking County. Pursuant to the upcoming annexation to the City of New Albany of real property located in Jersey Township, Licking County, the Parties desire to address the maintenance of certain portions of Jug Street Road, which upon finalization of the aforementioned annexations will be adjacent to and partially within the City’s corporate boundary. Accordingly, this Agreement shall set forth the responsibility for maintenance and improvement of a portion of Jug Street Road by the respective Parties for the mutual benefit of all Parties and for the convenience and welfare of the public.

#### **SECTION 3: RESPONSIBILITY OF THE PARTIES**

NEW ALBANY shall be responsible for maintenance and improvements of the portion of the Jug Street Road right of way, now and as may be altered in the future, from the Franklin County

Line to Mink Street. The City shall provide the County the opportunity to review construction plans and provide input relative to the design of the improvements within the right of way; however, the City shall maintain final authority over the design, construction and inspection of the improvements.

NEW ALBANY shall be responsible for the operation and maintenance of all traffic control devices and street lights that exist today or will be installed in the future within the Road Maintenance Agreement area.

NEW ALBANY shall have primary responsibility for snow removal on Jug Street Road between the Franklin County Line and Mink Street, and Licking County shall have secondary responsibility for snow removal on said section of roadway.

LICKING COUNTY shall be responsible for ditch maintenance and mowing on the north side of Jug Street Road, while NEW ALBANY shall be responsible for ditch maintenance and mowing on the south side of Jug Street Road.

LICKING COUNTY shall cooperate with the City through the support of grant applications and may, at the request of the City, provide supplemental, in-house engineering services to facilitate improvements to Jug Street Road.

Nothing in this Agreement shall be construed as to alter the reported inventory mileage of Jug Street Road to other agencies.

#### **SECTION 4: ACQUISITION OF ADDITIONAL RIGHT OF WAY**

The Parties shall cooperate to acquire necessary rights of way for any project undertaken pursuant to this Agreement. Each Party shall be responsible for acquiring necessary rights of way within the bounds of their respective jurisdictions unless otherwise specified in a separate agreement. As Jug Street Road is designated as a county road it is understood that the Licking County Commissioners have underlying ownership of the right of way.

#### **SECTION 5: NOTICE OF IMPROVEMENT**

If the Licking County Engineer desires to perform maintenance or make an improvement to Jug Street Road that requires closing to traffic of the road, he/she shall notify the New Albany Engineer of the planned action at the earliest date practicable. The plans for the maintenance project or the improvement shall provide for the maintenance of traffic as set forth by Section 5543.17 of the Ohio Revised Code.

#### **SECTION 6: TERM**

This Agreement shall become effective on the date first written above.

## **SECTION 7: TERMINATION OF AGREEMENT**

For the benefit of both Parties and the convenience and welfare of the public, this Agreement shall not be terminated or suspended except that when acting for good cause, either Part may unilaterally terminate or suspend this Agreement upon filing proper notice with the other Party at least one year in advance of the effective date of termination, stating the intention of the Party to suspend or terminate the Agreement of good cause. The agreement will automatically terminate if and at such time that the entire portion of Jug Street Road that is the responsibility of New Albany pursuant to this Agreement, is annexed by New Albany and is within the New Albany corporate boundary.

The Parties may mutually agree to terminate or suspend this Agreement at any time for any reason by action of both Parties.

## **SECTION 8: MISCELLANEOUS TERMS AND CONDITIONS**

- 8.1 Entire Agreement: This Agreement, and those documents incorporated by reference herein, shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties, except as provided in Section 9 of this Agreement.
- 8.2 Governing Law: This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Licking County, Ohio.
- 8.3 Headings: The subject headings of the Sections and Subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both Parties and no purposes of interpretation shall be made to the contrary.
- 8.4 Waivers: No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.

- 8.5 **Severability:** If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.

*{SIGNATURES ON THE FOLLOWING PAGE}*



## **RESOLUTION R-38-2021**

### **A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO APPROVE AND SIGN AGREEMENTS WITH MEDICAL CENTER OF NEW ALBANY, LLC RELATED TO INCENTIVES AVAILABLE FOR PROJECT DEVELOPMENT IN THE CENTRAL COLLEGE COMMUNITY REINVESTMENT AREA**

**WHEREAS**, the Council for the City of New Albany, Ohio (the "City") by its Resolution No. R-20-96 adopted September 10, 1996 (the "Original CRA Legislation"), created the Central College Community Reinvestment Area (the "Original Area"); and by its Resolution No. R-28-98, adopted July 7, 1998, and by Ordinance No. O-42-2008, adopted October 21, 2008, (together the "CRA Expansion Legislation" and collectively with the Original CRA Legislation the "CRA Legislation"), amended the designation of the Original Area to include certain other parcels within the City that now collectively comprise the entire Central College Community Reinvestment Area; and

**WHEREAS**, the City of New Albany 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**, Medical Center of New Albany, 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 Eastland-Fairfield Career & Technical Schools has been notified in accordance with the applicable law; and

**WHEREAS**, the Boards of Education of the New Albany-Plain Local School District has waived their right to receive notice under Section 5709.83 of the Revised Code in accordance with its respective compensation agreements entered into with the city of New Albany; and



**WHEREAS**, in accordance with Section 3735.673 of the Revised Code, the City notified the City of Columbus that a number of positions currently located within the City of Columbus are expected to be relocated to the City of New Albany as a result of this proposed agreement.

**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 CRA Agreement by and between the City and the Company, in the form presently on file in the New Albany Community Development Department, which Agreement provides for a 100% CRA exemption for up to 15-years for the proposed project, 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 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(A) of the New Albany Charter, this resolution shall take effect upon adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**Attest:**

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

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

**Approved as to form:**

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

**Legislation dates:**

Prepared: 07/23/2021

Introduced: 08/03/2021

Revised:

Adopted:

Effective:

**ATTEST:**

**IN EXECUTION WHEREOF**, the Parties have caused this Agreement to be executed in their names by their respective duly authorized representatives on the date first written above

**CITY OF NEW ALBANY:**

SIGNATURE: \_\_\_\_\_

NAME: Joseph Stefanov

TITLE: New Albany City Manager

DATE: \_\_\_\_\_

**STATE OF OHIO** )  
**COUNTY OF LICKING** ) ss:

APPROVED AS TO FORM:

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

**LICKING COUNTY BOARD OF COMMISSIONERS:**

\_\_\_\_\_  
County Commissioner

\_\_\_\_\_  
County Commissioner

\_\_\_\_\_  
County Commissioner

DATE: \_\_\_\_\_

**STATE OF OHIO** )  
**COUNTY OF LICKING** ) ss:

APPROVED AS TO FORM:

\_\_\_\_\_  
Licking County Prosecutor's Office



## **RESOLUTION R-38-2021**

### **A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO APPROVE AND SIGN AGREEMENTS WITH MEDICAL CENTER OF NEW ALBANY, LLC RELATED TO INCENTIVES AVAILABLE FOR PROJECT DEVELOPMENT IN THE CENTRAL COLLEGE COMMUNITY REINVESTMENT AREA**

**WHEREAS**, the Council for the City of New Albany, Ohio (the "City") by its Resolution No. R-20-96 adopted September 10, 1996 (the "Original CRA Legislation"), created the Central College Community Reinvestment Area (the "Original Area"); and by its Resolution No. R-28-98, adopted July 7, 1998, and by Ordinance No. O-42-2008, adopted October 21, 2008, (together the "CRA Expansion Legislation" and collectively with the Original CRA Legislation the "CRA Legislation"), amended the designation of the Original Area to include certain other parcels within the City that now collectively comprise the entire Central College Community Reinvestment Area; and

**WHEREAS**, the City of New Albany 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**, Medical Center of New Albany, 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 Eastland-Fairfield Career & Technical Schools has been notified in accordance with the applicable law; and

**WHEREAS**, the Boards of Education of the New Albany-Plain Local School District has waived their right to receive notice under Section 5709.83 of the Revised Code in accordance with its respective compensation agreements entered into with the city of New Albany; and

**WHEREAS**, in accordance with Section 3735.673 of the Revised Code, the City notified the City of Columbus that a number of positions currently located within the City of Columbus are expected to be relocated to the City of New Albany as a result of this proposed agreement.

**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 CRA Agreement by and between the City and the Company, in the form presently on file in the New Albany Community Development Department, which Agreement provides for a 100% CRA exemption for up to 15-years for the proposed project, 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 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(A) of the New Albany Charter, this resolution shall take effect upon adoption.

**CERTIFIED AS ADOPTED** this 03 day of Aug, 2021.

**Attest:**

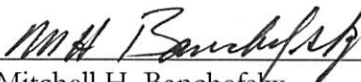


Sloan T. Spalding  
Mayor



Jennifer H. Mason  
Clerk of Council

**Approved as to form:**



Mitchell H. Banchevsky  
Law Director

**Legislation dates:**

Prepared: 07/23/2021

Introduced: 08/03/2021

Revised:

Adopted: 08/03/2021

Effective: 08/03/2021