



ORDINANCE O-106-2023

AN ORDINANCE TO ACCEPT THE EXPEDITED TYPE 1 ANNEXATION OF 9.9+/- ACRES FROM PLAIN TOWNSHIP, FRANKLIN COUNTY TO THE CITY OF NEW ALBANY

WHEREAS, pursuant to the petition filed by Aaron L. Underhill, Esq., agent for petitioner, with the Franklin County Development and Planning Department, on September 11, 2023, and

WHEREAS, the foregoing Resolution #0734-23 of the Franklin County Commissioners granting the petition was delivered to the City of New Albany on October 4, 2023 and more than sixty (60) days have elapsed since the Resolution of the Board of County Commissioners was transmitted to the City of New Albany, and

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

WHEREAS, pursuant to New Albany Codified Ordinance 1125.06, all future annexed properties shall be added to the applicable New Albany Community Authority as described therein and are subject to a special property assessment in compliance therewith, and

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

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

Section 1: The application of property owners set forth in Franklin County requesting the annexation of 9.9+/- acres, which is contiguous to the City of New Albany, is hereby accepted, and the corporate boundaries of New Albany shall be extended to include the territory, more particularly described in Exhibit A, attached hereto and incorporated herein as if fully written.

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

Section 3: Council of the City of New Albany hereby accepts the annexation of a 9.9+/-acre tract, situated in Plain Township, Franklin County, Ohio, the same being land of the owners set forth above, for annexation to the City of New Albany.

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

Section 5. 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 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 121.22 of the Ohio Revised Code.

Section 6. Pursuant to Article VI, Section 6.07(b) of the charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2023.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin Albrecht
Law Director

Legislation dates:

Prepared:	11/16/2023
Introduced:	12/05/2023
Revised:	
Adopted:	
Effective:	

**CERTIFICATION BY CLERK OF COUNCIL
OF PUBLICATION OF LEGISLATION**

I certify that copies of Ordinance **O-106-2023** were posted in accordance with Section 6.12 of the Charter, for 30 days starting on _____, 2023.

Jennifer Mason, Clerk of Council

Date

RECEIVED

AUG 29 2023

Franklin County Engineer
Cornell R. Robertson, P.E., P.S.

Exhibit "A"

RECEIVED
SEP 11 2023
AWK-37-23
Franklin County Planning Department
Franklin County, OH

ANNEXATION
PLAT & DESCRIPTION
ACCEPTABLE
CORNELL R. ROBERTSON, P.E., P.S.
FRANKLIN COUNTY ENGINEER

By CR Date 08/29/2023

**Proposed 9.9± Acre Annexation
from Plain Township
to the Village of New Albany**

-1-

Situated in the State of Ohio, County of Franklin, Township of Plain, being part of Quarter Township 3, Township 2, Range 16, United States Military Lands and containing 9.9± acres of land, more or less, said 9.9± acres being all of an 8.407 acre tract of land conveyed to Oakland Nursery Inc. in Instrument No. 201105190064388, all of a 1.542 acre tract of land conveyed to the Village of New Albany in Instrument No. 200505200096849, a portion of the right-of-way of Thompson Road as dedicated in Plat Book 108, Pg. 24 and Plat Book 103, Pg. 84, and being part of Lot 2 as numbered and delineated for the Estate of Reuben Baughman Deceased in Plat Book 5, Pg. 162, said 9.9± acres more particularly described as follows:

Beginning, at the northwest corner of an 8.407 acre tract of land conveyed to Oakland Nursery Inc. in Instrument No. 201105190064388, a southwest corner of said 1.542 acre tract and being on the east line of a 8.561 acre tract of land conveyed to Church Foundation of the Diocese of Southern Ohio in Official Record 33811B10, the west line of said Lot 2, the southerly right-of-way of Thompson Road, and an easterly Village of New Albany Corporation Line (Case No. 23-92, Ordinance No. 68-92, Official Record 25261E16);

Thence **N 17° 59' 01" E**, with a west line of said 1.542 acre tract, the east line of said 8.561 acre tract and said Lot 2, across the right-of-way of said Thompson Road, and with said easterly Village of New Albany Corporation Line, **24.6 feet±** to the northeast corner of said 8.561 acre tract and the northwest corner of said 1.542 acre tract, being on the centerline of said Thompson Road, the west line of Lot 2, the intersection of said westerly Village of New Albany Corporation Line, and a southerly Village of New Albany Corporation Line (Case No. 100-88, Ordinance No. 19-89, Official Record 13965D03);

Thence **S 86° 08' 03" E**, with the north line of said 1.542 acre tract, the centerline of said Thompson Road, said southerly Village of New Albany Corporation Line, and across said Lot 2, **647.0 feet±** to a point;

Thence **S 86° 01' 47" E**, with the north line of said 1.542 acre tract, across the right-of-way of said Thompson Road, and with said southerly Village of New Albany Corporation Line, **342.2 feet±** to the northeast corner of said 1.542 acre tract, an angle point of said Village of New Albany Corporation Line, and being on the centerline of Johnstown Road (U.S. 62);

Thence with the centerline of said Johnstown Road (U.S. 62), across the right-of-way of said Thompson Road and the right-of-way of said Harlem Road, with the east line of said 1.542 acre tract, the east line of said Lot 2, and said westerly Village of New Albany Corporation Line, with a curve to the right, a central angle of **8° 48' 27"**, a radius of **455.50 feet**, an arc length of **70.02 feet±**, and a chord bearing and distance of **S 40° 18' 13" W, 69.95 feet±** to a point;

Thence with the centerline of said Johnstown Road (U.S. 62), across the right-of-way of said Thompson Road and the right-of-way of said Harlem Road, the east line of said 1.542 acre tract, and said Village of New Albany Corporation Line, and the east line of Lot 2, the following two (2) courses and distances:

1. **S 48° 49' 35" W, 43.08 feet** to a point;
2. **S 48° 42' 10" W, 33.94 feet** to a point;

Thence with the east line of said 1.542 acre tract, the west line of said 0.783 acre tract, the centerline of said Johnstown Road (U.S. 62), the east line of Lot 2, and said westerly Village of New Albany Corporation Line the following two (2) courses and distances:

1. **S 46° 33' 40" W, 402.3 feet±** to a point;
2. **S 48° 21' 07" W, 164.5 feet±** to the southeast corner of said 1.542 acre tract, the southwest corner of said 0.783 acre tract, the northeast corner of a 1.490 acre tract of land conveyed

**Proposed 9.9± Acre Annexation
from Plain Township
to the Village of New Albany
-2-**

to Oakland Nursery Inc. in Instrument No. 201804020042342, the northwesterly corner of a 0.146 acre tract of land conveyed to the Village of New Albany in Instrument No. 201107290094175, being on the centerline of said Johnstown Road (U.S. 62), the south line of said Lot 2, the north line of Lot 3 as numbered and delineated on said plat, and an angle point of said Village of New Albany Corporation Line;

Thence **N 85° 41' 40" W**, across the right-of-way of said Johnstown Road (U.S. 62), with the south line of said 1.542 acre tract, the north line of said 1.490 acre tract, the common line of said Lots 2 and 3, and said northerly Village of New Albany Corporation Line, **61.3 feet±** to the

southeast corner of said 8.407 acre tract and a southwest corner of said 1.542 acre tract, being on the north line of said 1.490 acre tract, an angle point on the westerly right-of-way of said Johnstown Road (U.S. 62), the common line of said Lots 2 and 3, and being on said northerly Village of New Albany Corporation Line;

Thence **N 85° 29' 02" W**, with the south line of said 8.407 acre tract, the north line of said 1.490 acre tract, the common line of said Lots 2 and 3, and said northerly Village of New Albany Corporation Line, **307.2 feet±** to the northwest corner of said Oakland Nursery Inc., a northeast corner of a 2.060 acre tract of land conveyed to Stephen S. Tippet, TRS and Pamela A. Tippet, TRS in Instrument No. 200201230020970, and an angle point of said Village of New Albany Corporation Line, and being on the south line of said 8.407 acre tract and the common line of said Lots 2 and 3;

Thence **N 85° 29' 02" W**, continuing with the south line of said 8.407 acre tract and the north line of said 2.060 acre tract, **273.2 feet±** to the southwest corner of said 8.407 acre tract, the northwest corner of said 2.060 acre tract, the southwest corner of said Lot 2, and the northwest corner of said Lot 3, being on the east line of said 8.561 acre tract, and said easterly Village of New Albany Corporation Line (Case No. 23-92, Ordinance No. 68-92, Official Record 25261E16);

Thence **N 18° 40' 09" E**, with the west line of said 8.407 acre tract, the east line of said 8.561 acre tract, the west line of Lot 2, and said easterly Village of New Albany Corporation Line, **510.5 feet±** to the **Point of Beginning**, containing **9.9 acres ±**.

The above description was prepared by Advanced Civil Design Inc. on August 23, 2023 and is based on existing Franklin County Auditor records and Franklin County Recorder's records.

The total length of the annexation perimeter is 2,880 feet, of which 2,607± feet are contiguous with existing City of Columbus Corporation lines, being 91±% contiguous.

All references used in this description can be found at the Recorder's Office, Franklin County, Ohio.

This is not to be used for the transfer of land and is for annexation purposes only.



ADVANCED CIVIL DESIGN, INC.

Douglas R. Hock 8/29/23
Douglas R. Hock, P.S. 7661 Date:

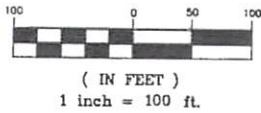
Exhibit "B"

Length of Contiguity: ±2,607 feet
 Total Length of Perimeter: ±2,880 feet
 Percentage of Contiguity: ±91%

No islands of township property are created by this annexation.

Legend
 Area to be Annexed

GRAPHIC SCALE



9.9 ACRE± ANNEXATION FROM THE TOWNSHIP OF PLAIN TO THE CITY OF NEW ALBANY

Township of Plain, Franklin County, Ohio
 Quarter Township 3, Township 2, Range 16
 United States Military Lands

RECEIVED

AUG 29 2023

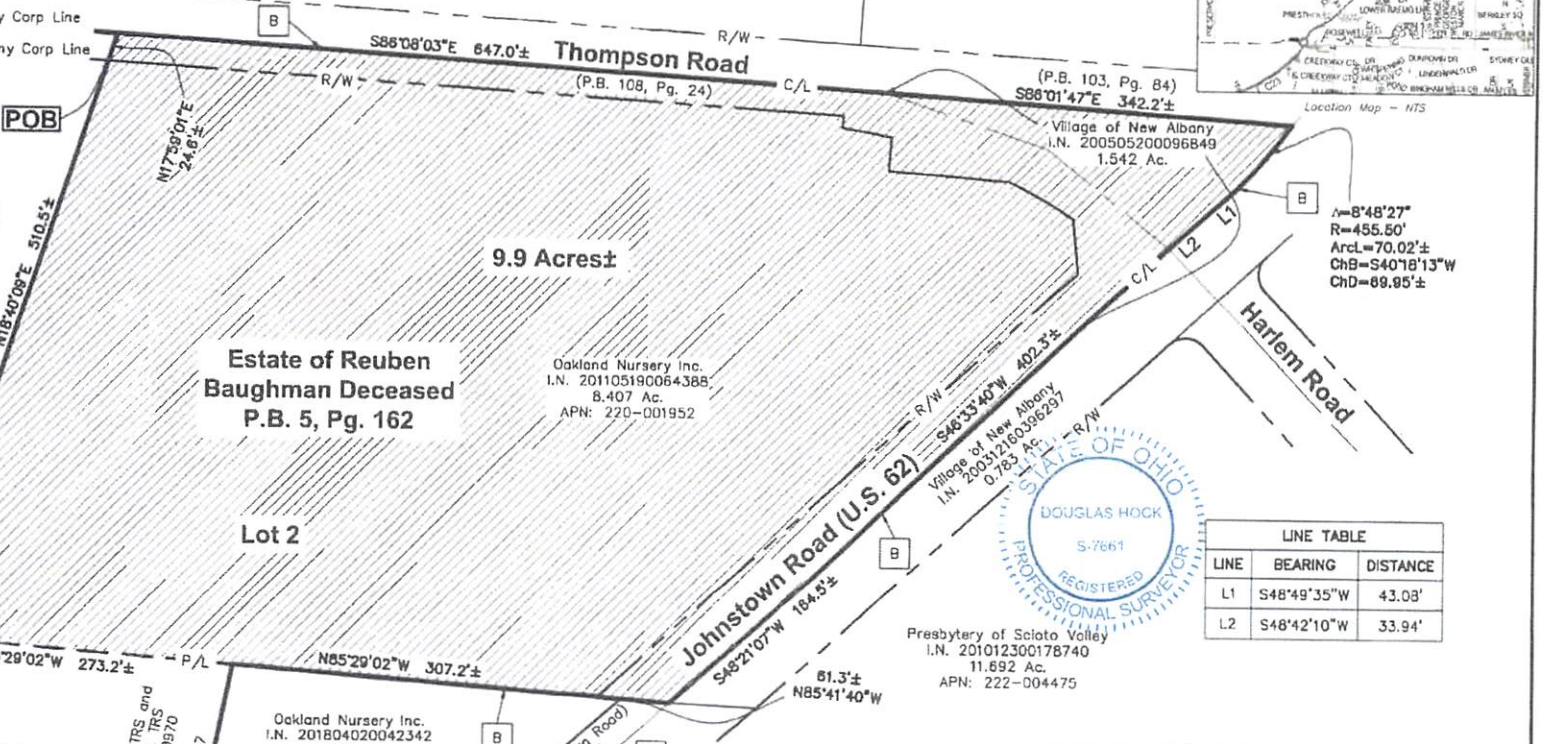
Franklin County Engineer
 Cornell R. Robertson, P.E., P.S.



Location Map - NTS

Existing Village of New Albany Corp Line
 Proposed Village of New Albany Corp Line

ANNEXATION PLAT & DESCRIPTION ACCEPTABLE
 CORNELL R. ROBERTSON, P.E., P.S.
 FRANKLIN COUNTY ENGINEER
 By *[Signature]* DaChurch Foundation of the Diocese of Southern Ohio
 O.R. 33811B10
 8.561 Ac.
 APN: 222-001515



$\Delta = 8'48'27''$
 $R = 455.50'$
 $ArcL = 70.02'±$
 $ChB = S40'18'13''W$
 $ChD = 69.95'±$



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S48°49'35\"W	43.08'
L2	S48°42'10\"W	33.94'

- A Village of New Albany Corporation Line Case No. 23-92 Ord. No. 68-92 O.R. 25261E16
- B Village of New Albany Corporation Line Case No. 100-88 Ord. No. 19-89 O.R. 13965D03
- C Village of New Albany I.N. 201107290094175 0.146 Ac.
- D Village of New Albany I.N. 200610050199732 0.1756 Ac.

Estate of Reuben Baughman Deceased
 P.B. 5, Pg. 162

Oakland Nursery Inc.
 I.N. 201105190064385
 8.407 Ac.
 APN: 220-001952

Lot 2

Oakland Nursery Inc.
 I.N. 201804020042342
 1.490 Ac.
 APN: 222-000297

Lot 3

Presbytery of Scioto Valley
 I.N. 201012300176740
 11.692 Ac.
 APN: 222-004475

Stephen S. Tippett, TRS and Pamela A. Tippett, TRS
 I.N. 200201230020970
 2.060 Ac.
 APN: 220-001797

This exhibit is created from information obtained from the Franklin County Auditor's Office and the Franklin County Recorder's Office. This exhibit is not to be used for the transfer of land.

ADVANCED CIVIL DESIGN, INC.

[Signature] 8/29/23
 Doug R. Hock Date
 Reg. No. 7661

RECEIVED
 SEP 11 2023
 ANR-37-23
 Franklin County Planning Department
 Franklin County, OH

DRAWN BY: JRM JOB NO.: 23-0001-1406
 DATE: 8/25/2023 CHECKED BY: DRB



781 Science Blvd., Suite 100
 Gahanna, Ohio 43230
 ph 614.428.7750
 fax 614.428.7755



ORDINANCE O-107-2023

APPROPRIATION AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NEW ALBANY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2023

WHEREAS, it is necessary to increase and/or transfer expenditure appropriations within multiple funds to ensure expenditures do not exceed appropriations;

WHEREAS, it is necessary to reduce certain expenditure appropriations in multiple funds at year end to ensure that funds are not over appropriated; and

WHEREAS, it is the city’s intention to stay in compliance with all Ohio Revised Code budgetary requirements; and

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

Section 1. Council hereby authorizes the following amendments to appropriations for the year ended December 31, 2023:

Fund	Department	Category	Increase/ (Decrease)
101 - General	Finance	Operating and Contractual Services	\$ 110,000
101 - General	N/A	Transfers & Other Financing Uses	(5,000,000)
228 - Subdivision Development	Community Development	Operating and Contractual Services	200,000
229 - Builders Escrow	Community Development	Operating and Contractual Services	900,000
230 - Wentworth Crossing TIF	General Administration	Operating and Contractual Services	26,000
231 - Hawksmoor TIF	General Administration	Operating and Contractual Services	15,500
232 - Endave TIF	General Administration	Operating and Contractual Services	3,150
233 - Saunton TIF	General Administration	Operating and Contractual Services	14,800
234 - Richmond Square TIF	General Administration	Operating and Contractual Services	18,250
235 - Tidewater TIF	General Administration	Operating and Contractual Services	30,850
236 - Ealy Crossing TIF	General Administration	Operating and Contractual Services	29,900
237 - Upper Clarenton TIF	General Administration	Operating and Contractual Services	51,400
239 - Straits Farm TIF	General Administration	Operating and Contractual Services	19,303
240 - Oxford TIF	General Administration	Operating and Contractual Services	(18,500)

Fund	Department	Category	Increase/ (Decrease)
241 - Schleppe Residential TIF	General Administration	Operating and Contractual Services	31,350
250 - Blacklick TIF	General Administration	Operating and Contractual Services	738,000
252 - Village Center TIF	General Administration	Operating and Contractual Services	95,200
258 - Windsor TIF	General Administration	Operating and Contractual Services	12,000
258 - Windsor TIF	N/A	Capital	(1,100,000)
259 - Village Center II TIF	General Administration	Operating and Contractual Services	(133,000)
281 - Healthy New Albany	General Administration	Operating and Contractual Services	1,208
405 - Water and Sanitary Sewer Improvement	N/A	Capital	8,800
417 - Oak Grove II Infrastructure Fund	Finance	Operating and Contractual Services	20,000
Total Appropriation Amendments			\$ (3,925,789)

Section 2. Council hereby authorizes the finance director to make transfers as needed between appropriation line items of funds in order to bring expenditures in line with appropriation line items and restore appropriations reduced within this ordinance if necessary to bring expenditures in line with appropriation line items.

Section 3. Council hereby authorizes the finance director to increase appropriations as needed up to \$100,000 in order to accommodate unforeseen expenditures and ensure amounts are within appropriations.

Section 4. Council hereby authorizes the finance director to adjust appropriations within the following funds in accordance with actual receipts received in 2023 to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2023:

Fund
223 - Oak Grove Economic Opportunity Zone
224 - Central College Economic Opportunity Zone
225 - Oak Grove II Economic Opportunity Zone
226 - Blacklick Economic Opportunity Zone
239 - Straits Farm TIF
240 - Oxford TIF
241 - Schleppe Residential TIF
259 - Village Center II TIF
280 - Hotel Excise Tax

Section 5. Council hereby authorizes the finance director to reduce appropriations within any fund to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2023 so long as compliance with ORC 5705.40 and ORC 5705.41 is maintained.

Section 6. 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 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 121.22 of the Ohio Revised Code.

Section 7. Pursuant to Article VI, Section 6.07(A) of the Charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this _____ day of _____, 2023.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared:	11/20/2023
Introduced:	12/05/2023
Revised:	12/08/2023
Adopted:	
Effective:	



ORDINANCE O-108-2023

AN ORDINANCE TO AMEND CHAPTER 181 "INCOME TAX" OF THE CITY OF NEW ALBANY, OHIO'S CODIFIED ORDINANCES AS REQUESTED BY THE CITY OF NEW ALBANY AND DECLARING AN EMERGENCY

WHEREAS, in response to the most recent amendments which affect municipal income tax made House Bill 33 of the 135th General Assembly, a review of the Codified Ordinances of the City of New Albany, Chapter 181 was performed and updates have been found necessary; and

WHEREAS, it has been found that Codified Ordinances of the City of New Albany, Chapter 181, Sections 181.32, 181.34, 181.39, and 181.46 need to be updated to modernize the code and allow for changes to requirements for: net profit allocation, net profit filing extension due date, correspondence, late filing penalty, and opt-in provisions; and

WHEREAS, New Albany's third-party tax administrator, the Regional Income Tax Agency (RITA), provided model language necessary to update the city's codified ordinances in accordance with Ohio House Bill 33, which changes were either already made or are incorporated in the attached Exhibit A; 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 effective immediately upon adoption to meet the December 31, 2023 required effective date set forth by the Ohio House Bill 33.

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

Section 1. That portions of Codified Ordinance Chapter 181 "Income Tax" be amended to include updates required by Ohio House Bill 33 Municipal Income Tax as outlined in the Regional Income Tax Agency H.B. 33 Model Language and as set forth in Exhibit A, which depicts the updates as yellow highlighted text.

Section 2. For the reasons stated in the preamble and herein, council hereby declares an emergency and waives the otherwise applicable 30-day 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 121.22 of the Ohio Revised Code.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2023.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared:	11/22/2023
Introduced:	12/05/2023
Revised:	12/11/2023
Adopted:	
Effective:	

PART ONE – ADMINISTRATIVE CODE

TITLE NINE TAXATION

CHAPTER 181 INCOME TAX¹

Only code sections with changes, indicated by highlighting, are attached hereto.

181.32 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in the City and that has made the election under Section 181.30 of the Codified Ordinances.

(a) Except as otherwise provided in division (b) of this section, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight (8);

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 1181.06(b)(1)(B) of the Codified Ordinances;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(b) (1) If the apportionment factors described in division (a) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the tax commissioner may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one (1) or more of the following:

A. Separate accounting;

B. The exclusion of one (1) or more of the factors;

C. The inclusion of one (1) or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;

¹Editor's note(s)—Ord. O-35-2015 , § 1(Exh. A), adopted Nov. 3, 2015, applies to municipal taxable years beginning on or after Jan. 1, 2016. For taxable years prior to Jan. 1, 2016, the provisions of Ch. 183 shall apply.

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- D. A modification of one (1) or more of the factors.
- (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the tax commissioner denies the request in an assessment issued within the period prescribed by division (a) of Section 181.19 of the Codified Ordinances.
- (3) The Tax Commissioner may require a taxpayer to use an alternative apportionment method as described in division (b)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (a) of Section 181.19 of the Codified Ordinances.
- (4) Nothing in division (b)(1) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the tax commissioner or otherwise agreed upon by both the tax commissioner and taxpayer before January 1, 2016.**
- (c) As used in division (a)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one (1) of the following:
- A. The employer;
- B. A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
- C. A vendor, customer, client, or patient of a person described in division (c)(1)(B) of this section, or a related member of such a vendor, customer, client, or patient.
- (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
- (3) Any other location, if the Tax Commissioner determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (c)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Commissioner makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Commissioner's determination was unreasonable.
- (d) For the purposes of division (a)(3) of this section, **and except as provided in division (b) of this section,** receipts from sales and rentals made and services performed shall be situated to the City as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the City only if, regardless of where title passes, the property meets either of the following criteria:
- A. The property is shipped to or delivered within the City from a stock of goods located within the City.
- B. The property is delivered within the City from a location outside the City, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
- C. **The property shipped from a place within the City to purchasers outside the City provided the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where the delivery is made.**
-

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- (2) Gross receipts from the sale of services shall be situated to the City to the extent that such services are performed in the City.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the City shall be situated to the City.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the City shall be situated to the City.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the City based upon the extent to which the tangible personal property is used in the City.

(e) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the City's tax only if the property generating the net profit is located in the City, or if the individual taxpayer that receives the net profit is a resident of the City. The City shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(f) (1) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City's income tax ordinance.

(g) When calculating the ratios described in division (f)(1) of this section for the purposes of that division or division (f)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(g) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the City in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(h) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under ORC 718.01(C)(12) and (R)(1) by the City or substantially similar provision of the codified ordinances of another municipal corporation, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the City. In no case shall a taxpayer be required to add to its net profit that was apportioned to the City any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the City under this section.

(i) When calculating the ratios described in division (a) of this section for the purposes of that division or division (b) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(j) (1) As used in this division:

(a) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(c) "Reporting location" means either of the following:

(i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;

(ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under this Chapter on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

(i) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

(ii) If no reporting location exists in this state for an employee or owner under division (j)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(iii) If no reporting location exists in this state for an employee or owner under division (j)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of divisions (a) through (i) of this Section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (a) of this section, all of the following apply to a taxpayer that has made the election described in division (j):

(a) For the purpose of division (a)(1) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(b) For the purpose of division (a)(2) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(c) For the purpose of division (a)(3) of this section, and notwithstanding division (d) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (b) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to this Chapter.

181.34 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

- (a) (1) For each taxable year, every taxpayer shall file an annual return, **whether or not a tax is due thereon.** Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under Section 181.07 of the Codified Ordinances, shall be submitted to the Tax Commissioner, on a form and in the manner prescribed by the Commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.
- (2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with Sections 181.31(E), 181.32, and, if applicable, 181.36 of the Codified Ordinances onto its annual return.
- (3) The remittance shall be made payable to the Treasurer of State and in the form prescribed by the Tax Commissioner. If the amount payable with the tax return is ten dollars (\$10.00) or less, no remittance is required.
- (b) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) A. The Tax Commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the Commissioner under Sections 181.30 to 181.45 of the Codified Ordinances, copies of any relevant documents or other information.
- B. A taxpayer that files an annual tax return electronically through the Ohio business gateway or in another manner as prescribed by the Tax Commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the Tax Commissioner. The Department of Taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.
- (3) After a taxpayer files a tax return, the Tax Commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.
- (c) Intentionally Left Blank.
- (d) (1) A. Any taxpayer that has duly requested an automatic **six-month** extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the Commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. **For tax years ending on or after January 1, 2023, the extended due date of the City's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh month after the last day of the taxable year to which the return relates.**
- B. A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the Commissioner receives the request on or before the date the municipal income tax return is due, the Commissioner shall grant the taxpayer's extension request.
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- C. An extension of time to file under division (d)(1) of this section is not an extension of the time to pay any tax due unless the Tax Commissioner grants an extension of that date.
- (2) If the Commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with Section 181.01 of the Codified Ordinances, the Commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) If a taxpayer receives an extension for the filing of a municipal income tax return under division (d)(1) of this section, the tax commissioner shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If the tax commissioner violates division (d)(3) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.

Division (d)(3) of this section does not apply to an extension received under division (d)(1) of this section if the tax commissioner has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under (d)(1) of this section or failed to file for an extension under division (d)(2) of this section.

- (e) Each return required to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Commissioner with information that is missing from the return, to contact the Commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Commissioner and has shown to the preparer or other person.
- (f) When income tax returns or other documents require the signature of a tax return preparer, the Tax Commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature.

181.39 ADDITIONAL PENALTIES.

- (a) In addition to any other penalty imposed by Sections 181.30 to 181.45 of the Codified Ordinances or ORC Ch. 5703, the following penalties shall apply:
- (1) If a taxpayer required to file a tax return under Sections 181.30 to 181.45 of the Codified Ordinances fails to make and file the return within the time prescribed, including any extensions of time granted by the Tax Commissioner, the Commissioner may impose a penalty not exceeding twenty-five dollars (\$25.00) per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars (\$150.00).
- (2) If a person required to file a tax return electronically under Sections 181.30 to 181.45 of the Codified Ordinances fails to do so, the commissioner may impose a penalty not to exceed the following:
- A. For each of the first two (2) failures, five percent (5%) of the amount required to be reported on the return;

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- B. For the third and any subsequent failure, ten percent (10%) of the amount required to be reported on the return.
- (3) If a taxpayer that has made the election allowed under Section 181.30 of the Codified Ordinances fails to timely pay an amount of tax required to be paid under this chapter, the Commissioner may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.
- (4) If a taxpayer files what purports to be a tax return required by Sections 181.30 to 181.45 of the Codified Ordinances that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of Sections 181.30 to 181.45 of the Codified Ordinances, a penalty of up to five hundred dollars (\$500.00) may be imposed.
- (5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under Sections 181.30 to 181.45 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars (\$1,000.00) or one hundred percent (100%) of the tax required to be shown on the return.
- (6) If any person makes a false or fraudulent claim for a refund under Section 181.15 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars (\$1,000.00) or one hundred percent (100%) of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under Section 181.19 of the Codified Ordinances without regard to any time limitation for the assessment imposed by division (a) of that section.
- (7) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the City may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of liability shown thereon, except that the City shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files the return.**
- (b) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.
- (c) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the Tax Commissioner. The Commissioner may adopt rules governing the imposition and abatement of such penalties.
- (d) All amounts collected under this section shall be considered as taxes collected under Sections 181.30 to 181.45 of the Codified Ordinances and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under ORC 718.83.

181.46 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95

- (a) The City hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the ORC for tax years beginning on or after January 1, 2018.**
- (b) A taxpayer, as defined in division (c) of this section, may elect to be subject to Sections 718.80 to 718.95 of the ORC in lieu of the provisions of this Chapter.**
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(c) "Taxpayer" has the same meaning as in section 718.01 of the ORC, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the ORC. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.



ORDINANCE O-109-2023

BLACKLICK TIF EXTENSION ORDINANCE

AN ORDINANCE AMENDING ORDINANCE NO. O-10-99, AS AMENDED BY ORDINANCE NO. O-27-99 AND ORDINANCE NO. O-16-2018, TO EXTEND THE EXEMPTION FROM TAXATION FOR THE BLACKLICK I TIF AREA FOR AN ADDITIONAL TWENTY YEARS, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ohio Revised Code (“ORC”) Sections 5709.40, 5709.42, and 5709.43 (collectively, the “TIF Statutes”) this Council on March 16, 1999, passed Ordinance No. O-10-99, which was amended by Ordinance No. O-27-99, passed on August 3, 1999 and by Ordinance O-16-2018 passed August 21, 2018 (as amended, the “TIF Ordinance”), thereby declaring improvements to parcels of certain real property located in the City (as described and depicted in the TIF Ordinance, as amended, and referred to herein individually as a “Parcel” and collectively as the “Property”), to be a public purpose, exempting those improvements from real property taxation for a period of 30 years, specifying public infrastructure improvements to be made to benefit the Property, providing for the making of service payments in lieu of taxes (the “Service Payments”) by the owner(s) thereof, and establishing a municipal public improvement tax increment equivalent fund into which those Service Payments were to be deposited, and providing for payments to the New Albany-Plain Local School District (the “School District”) out of the Service Payments; and

WHEREAS, this Council desires to amend the TIF Ordinance, pursuant ORC Section 5709.51, to extend, for twenty (20) additional years, the exemption from taxation of improvements to the Property granted pursuant to the TIF Ordinance and further provide for payments to the School District out of those Service Payments; and

WHEREAS, notice of this amendment to the TIF Ordinance has been timely delivered to the School District and the Eastland-Fairfield Career and Technical Schools and in accordance with ORC Sections 5709.40 and 5709.83; and

WHEREAS, this ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, health, safety or welfare of the City, and for the further reason that this ordinance is required to be immediately effective in order to enable the City to obtain fund economic growth and development of real property located within the City and to comply with statutorily imposed deadlines for the effective date of this Ordinance.

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

Section 1. Council finds and determines that the Service Payments made by owners of the Property pursuant to ORC Section 5709.42 exceeded one million five hundred thousand dollars (\$1,500,000) in or prior to calendar year 2022.

Section 2. The TIF Ordinance is hereby amended, pursuant ORC Section 5709.51, to extend the exemption from taxation of improvements to each Parcel of the Property for a period of twenty (20) years from the end of the applicable exemption period for each Parcel as determined by Section 1 of the TIF Ordinance, as amended (the "Extension Period").

Section 3. Pursuant to ORC Section 5709.51(A)(3), for each year of the Extension Period and for each Parcel of the Property, the School District shall receive from Service Payments compensation equal in value to the amount of taxes that would be payable to the School District from that Parcel if the Improvements to that Parcel of the Property had not been exempted from taxation for the Extension Period.

Section 4. In connection with Section 2 and Section 3 hereof, Section 1 of the TIF Ordinance, as amended, is hereby amended and restated to provide as follows:

"Section 1. The area of the Village described in Exhibit A hereto is hereby designated as the "Blacklick TIF District" and pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40, this Council hereby finds and determines that 100% of the increase in true value of each Parcel constituting the Property subsequent to the effective date of this Ordinance (which increase in true value as it relates to each Parcel is hereinafter referred to as an "Improvement" as defined in Section 5709.40 but which Improvement shall not include the increase in true value of any Tax Abated Improvement located upon such parcel for so long as such Tax Abated Improvement is exempt pursuant to the CRA Statute) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing on the date of passage of this Ordinance and ending fifty (50) years from such date of passage, all in accordance with the requirements of said Sections 5709.40 and 5709.42 of the Ohio Revised Code."

Section 5. Except as provided herein, all other provisions of the TIF Ordinance, as amended, shall remain in full force and effect. City officials are further authorized to provide such information and to execute, certify or furnish such other documents, and to do all of the things as are necessary for and incidental to carrying out the provisions of this Ordinance.

Section 6. For the reasons stated herein, council hereby declares an emergency and waives the second reading and 30-day referendum period.

Section 7. The Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Department of Development of the State of Ohio within fifteen days after its passage.

Section 8. 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 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 121.22 of the Ohio Revised Code.

Section 9. By reason of the emergency set forth in the preamble hereto, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

CERTIFIED AS ADOPTED this _____ day of _____, 2023.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 12/04/2023

Introduced: 12/19/2023

Revised:

Adopted:

Effective:



ORDINANCE O-110-2023

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEW ALBANY BY AMENDING THE ZONING MAP TO REZONE 12.737+/- ACRES OF LAND LOCATED TO THE NORTHWEST OF AND ADJACENT TO THE INTERSECTION OF NEW ALBANY-CONDIT ROAD AND NEW ALBANY ROAD EAST, FROM INFILL PLANNED UNIT DEVELOPMENT (I-PUD) TO LIMITED GENERAL EMPLOYMENT (L-GE) FOR AN AREA TO BE KNOWN AS THE "NORTH CITY BUSINESS ZONING DISTRICT" AS REQUESTED BY THE NEW ALBANY COMPANY, LLC C/O AARON UNDERHILL, ESQ.

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

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

WHEREAS, pursuant to the application by The New Albany Company, LLC c/o Aaron Underhill, Esq., the Rocky Fork-Blacklick Accord Panel and the New Albany Planning Commission reviewed the proposed ordinance amendment and recommended its approval.

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

Section 1. Council hereby amends the zoning ordinance map of the city of New Albany to change the zoning classification of the following described site:

- A. A 12.737+/- acre site within Franklin County, located to the northwest of and adjacent to the intersection of New Albany Condit Road and New Albany Road East, from its current zoning of Infill Planned Unit Development (I-PUD) to Limited General Employment (L-GE).
- B. The zoning district's limitation text and boundary map are hereby attached and marked 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 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 121.22 of the Ohio Revised Code.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2023.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:	
Prepared:	12/06/2023
Introduced:	12/19/2023
Revised:	
Adopted:	
Effective:	

NORTH CITY BUSINESS ZONING DISTRICT

LIMITATION (L-GE) TEXT

December 6, 2023

I. **Summary:** The North City Business Zoning District (hereinafter, the “Zoning District”) consists of 12.737+/- acres located to the northwest of and adjacent to the intersection of New Albany-Condit Road and New Albany Road East. The property is presently undeveloped and is generally bisected from southwest to northeast by a 110-foot wide gas line easement. To the north is the Nottingham Trace residential subdivision, including a 23+ acre park that is to the northwest of and adjacent to the subject site. To the north of and adjacent to this zoning district is a tract of property that is zoned to allow future development of retail and service uses, and to the east across New Albany-Condit Road is the Canine Companions for Independence campus. An undeveloped property is located to the west, and across New Albany Road East to the south is the Discover Financial call center facility.

The New Albany Company LLC (“NACO”) is the applicant and seeks to apply the L-GE, Limited General Employment zoning designation to the subject property. In 2021, this property was approved with an I-PUD zoning designation (Cornerstone Academy I-PUD District) to facilitate the development and operation of a public charter school campus for Cornerstone Academy. After that rezoning was approved, Cornerstone entered into a lease with the owner of an existing building located at 7525 West Campus Road, formerly known as NACOT I and located to the southwest of this proposed Zoning District. The intent was to provide a temporary location for Cornerstone High School until such time as the new campus could be developed on the property that is the subject of this application. However, the use of the building was a great fit for the school, and Cornerstone Academy has now determined that it would like to remain on that site permanently and also acquire an adjacent building and other improved and unimproved real property to develop its campus at that other location. As part of that plan, Cornerstone Academy is acquiring an undeveloped parcel that is owned by NACO in exchange for the transfer of the property within this Zoning District to NACO. NACO seeks to rezone the property it is acquiring into the L-GE zoning classification, which was the zoning of the property before the approval of the Cornerstone Academy I-PUD.

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

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

- A. Industrial product sales (See Section 1153.03(a)(1));
- B. Industrial service (See Section 1153.03(a)(2));
- C. Mini-warehouses (See Section 1153.03(a)(4)(c)). For purposes of clarification,

this prohibition only applies to such facilities that are made available for rental to the general public;

- D. Personal service (See Section 1153.03(b)(2)) and retail product sales and service (See Section 1153.03(b)(3)), except that such uses shall be allowed as accessory uses to a permitted use in this Zoning District;
- E. Vehicle services (See Section 1153.03(b)(4));
- F. Radio/television broadcast facilities (See Section 1153.03(c)(1));
- G. Sexually-oriented businesses (See Section 1153.03(c)(3)); and
- H. Off-premises signs (See Section 1153.03(c)(2)).

IV. Lot and Setback Commitments:

A. Lot Coverage: There shall be a maximum lot coverage in this Zoning District of 75%.

B. Setbacks:

1. New Albany-Condit Road: There shall be a minimum pavement and building setback of 125 feet from the right-of-way of New Albany-Condit Road.

2. New Albany Road East: There shall be a minimum pavement and building setback of 125 feet from the right-of-way of New Albany Road East.

3. Other Perimeter Boundaries: There shall be a minimum pavement and building setback of 25 feet from all perimeter boundaries of this zoning district that are not adjacent to a public right-of-way.

4. Interior Setbacks: There shall be a zero setback requirement for pavement and buildings from property lines that are interior to this zoning district (i.e., those property lines which are not perimeter boundary lines).

5. Elimination of Setbacks: In the event that a parcel located within this Zoning District and an adjacent parcel located within or outside of this Zoning District (i) come under common ownership or control, (ii) are zoned to allow compatible non-residential uses, and (iii) are combined into a single parcel, then any minimum building, pavement, or landscaping setbacks set forth in this text as they apply to common property lines shall no longer apply with respect to these parcels.

V. Architectural Standards:

A. Building Height: The maximum building height for structures in this Zoning District shall be 65 feet, subject to Section 1165.03 of the Codified Ordinances.

B. Service and Loading Areas: Service areas and loading areas shall be screened in accordance with the Codified Ordinances.

C. Building Design:

1. Building designs shall not mix architectural elements or ornamentation from different styles.
2. Buildings shall be required to employ a comparable use of materials on all elevations.
3. The number, location, spacing, and shapes of windows and door openings shall be carefully considered. Primary entrances to buildings shall be made sufficiently prominent that they can be easily identified from a distance.
4. For office buildings and complexes, achieving a human or pedestrian scale is of less concern. When achieving such a scale is desired, it may be achieved by careful attention to width of facades, size and spacing of window and door openings, and floor to floor heights on exterior walls.

All elevations of a building that are visible from a public right-of-way shall receive similar treatment in terms of style, materials, and design so that such elevations are not of a lesser visual character than any other. 6. Use of elements such as shutters, cupolas, dormers, and roof balustrades shall be avoided in building designs that are not based on traditional American architectural styles. Such elements may be employed only when they are common elements of a specific style, and this style shall be replicated in its entirety. When shutters are employed, even if they are non-operable, they must be sized and mounted in a way that gives the appearance of operability.

5. Elements such as meter boxes, utility conduits, roof and wall projections such as vent and exhaust pipes, basement window enclosures, and trash containers shall be designed, located, or screened so as to minimize their visibility and visual impact from off-site. Solar energy systems and solar panels shall be excluded from the requirements of this section and shall be subject to current requirements in the Codified Ordinances and to future requirements found in the Codified Ordinances for any solar energy systems of solar panels installed after such future requirements are adopted.

6. Accessory or ancillary buildings, whether attached or detached, shall be of similar design, materials and construction as the nearest primary structure. Fenestration themes that employ windows, panels and piers that are consistent with the architectural vocabulary of the building are encouraged. Accessory structures, generators, storage tanks, trash receptacles or any other similar improvement must be located behind a building façade that does not front on a public right-of-way.

D. **Building Form:**

1. All building elevations shall be designed to be compatible with each other and to reflect a consistent design approach.
2. Gable or hip roofs shall be avoided unless a building design replicates a traditional American architectural style that employs such roof forms. In non-stylistic contemporary designs, low or flat roofs may be employed. Roof visibility shall be minimized.

E. Materials:

1. Exterior building materials shall be appropriate for contemporary suburban designs and shall avoid overly reflective surfaces. Traditional materials such as, but not limited to, wood, stone, brick, and concrete shall be permitted, and contemporary materials such as, but not limited to, aluminum, metal, glass, stucco, or cementitious fiberboard (e.g., hardiplank or equivalent) shall be permitted on buildings not employing traditional styles. Architectural precast concrete panels and/or poured-in-place concrete tilt-up panels shall be permitted. The use of reflective or mirrored glass shall be prohibited.
2. Prefabricated metal buildings and untreated masonry block structures are prohibited. Notwithstanding the foregoing, ancillary structures built and operated for the purpose of enclosing equipment and which are not occupied by tenants or persons on a regular basis may be constructed using pre-engineered metal.
3. Generally, the quantity of materials selected for a building shall be minimized. A single material selection for the independent building components of roof, wall and accents is permitted (i.e., Architectural Grade shingle roof with Brick Masonry wall and EIFS Cornice and Accents). Building color palettes shall be simple and unobtrusive to avoid overly bright or jarring colors, subject to the review and approval of the City Architect.
4. Loading docks are not required to have the same degree of finish as a main entry unless they are visible from a public right-of-way.
5. Additional Standards for Uses Not Governed by DGRs: Buildings that are constructed to accommodate certain uses are not governed by the City's Design Guidelines and Requirements (DGRs). For example, buildings that are constructed for the operation of data centers, warehousing and/or distribution uses are not subject to the DGRs and can present challenges in meeting the community standard for architectural design. Such buildings are necessarily large and typically include long walls that together form a square or rectangular box. The goal for the development of buildings that are not subject to the DGRs is to balance the practical needs of these buildings with the desire to provide exterior designs that are

attractive and complimentary to the architecture that will be found elsewhere in this Zoning District.

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

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

a. Architectural design for all portions of a building or structure that are visible from a public right-of-way (excluding public rights-of-way whose primary purpose is to accommodate truck traffic or service loading areas) shall meet the community standard in terms of quality while considering the unique nature of the use(s) that will be found therein.

b. Uninterrupted blank wall facades shall be prohibited to the extent that they are visible from a public right-of-way. Design variations on long exterior walls shall be employed in order to create visual interest. Examples of such design variations include, but are not limited to, the use of offsets, recesses and/or projections, banding, windows, and/or reveals; scoring of building facades; color changes; texture or material changes; and variety in building height.

c. The use of one or more architectural or design elements may be used to soften the aesthetics of the building, such as but not limited to canopies, porticos, overhangs, arches, outdoor patios, community spaces, or similar devices.

d. Contemporary exterior designs, while not required, shall be encouraged in order to create architecture that does not look aged or dated even many years after the facility is built.

e. Landscaping and/or the use of existing vegetation shall be utilized where appropriate to enhance the aesthetics of the building and to lessen its visual impact when viewed from public rights-of-way.

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

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

A. Street Rights-of-Way: Right-of-way shall be dedicated to the City for a distance of 50 feet as measured from the centerline of New Albany-Condit Road and for a distance of 50 feet as measured from the centerline of New Albany Road East. Easements shall be required to be granted prior to the issuance of a building permit in this Zoning District adjacent to public street rights-of-way at a distance necessary to accommodate city street capital improvement projects when insufficient right-of-way exists to accommodate these improvements.

B. Vehicular Access: The developer shall work with the City Manager or their designee to determine the need for appropriate timing and phasing of street improvements to serve this Zoning District. Prior to being issued a building permit for construction or development within this Zoning District, a Traffic Impact Study shall be submitted to the City for review and approval by the City Engineer, unless a waiver of the requirement for this study or approval of less than a full study is provided by the City Engineer. Subject to other provisions in this text, on public rights-of-way which exist on the date of this text the number, locations, and spacing of curbcuts shall be determined and approved by the City Manager or their designee in consultation with the developer at the time that a certificate of appropriateness is issued for a project in this Zoning District.

C. Parking and Loading: Parking and loading spaces shall be provided for each use per Chapter 1167 of the Codified Ordinances of the City of New Albany.

VII. Buffering, Landscaping, Open Space, and Screening: A landscaping plan shall be approved as part of the City's review of a certificate of appropriateness application for each portion of this Zoning District that is proposed for development. The following landscaping requirements shall apply to this Zoning District:

A. Tree Preservation: Reasonable and good faith efforts will be made to preserve existing trees and tree rows occurring within perimeter and stream setbacks in this subarea. Standard tree preservation practices will be in place to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.

B. New Albany-Condit Road and New Albany Road East Landscape Treatments: A landscape treatment consisting of an average of 10 trees per 100 lineal feet of road frontage shall be installed and maintained along New Albany-Condit Road and New Albany Road East within a distance of 55 feet from the right-of-way, unless otherwise prohibited by an existing gas line easement that runs through the property. These trees shall consist of a mix of deciduous and evergreen species that are native to Ohio, with the locations, number, and spacing to be reviewed

as part of a final development plan. Mounds shall be installed where possible, subject to the city landscape architect, and trees shall be installed on a mound that has a slope not to exceed 6:1 on the side facing the public street. The mound shall be a minimum of 3 feet and a maximum of 12 feet in height, and its design shall be reviewed as part of a final development plan. 70% of required trees shall be planted on the street side of the mound, and no trees shall be located within the upper quartile crest of the mound.

C. Parking Lot Landscaping: Within this Zoning District, there shall be no less than one (1) tree planted for every ten (10) parking spaces located therein. At least five percent (5%) of the vehicular use area shall be landscaped or green space (or treed areas). Parking lots shall be designed to accommodate parking lot islands with tree(s) at the end of parking aisles. The landscaped areas shall be arranged in such a manner so as to visually break up large expanses of pavement and provide landscaped walking paths between parking lots and the main buildings.

D. Leisure Trails: An existing asphalt leisure trail with a width of 8 feet has been constructed along the zoning district's frontage along New Albany Road East. An asphalt leisure trail with a width of 8 feet shall be constructed by the applicant/developer along the zoning district's frontage on New Albany-Condit Road. This leisure trail shall be constructed to connect to the existing leisure trail that is located along the site's frontage on New Albany Road East.

E. White Horse Fence: A four-board white horse fence has been installed along the zoning district's frontage along New Albany Road East. A four-board white horse fence shall be installed along the zoning district's frontage on New Albany-Condit Road. The existing four-board white horse fence along New Albany Road East shall remain.

F. Stream Corridor: A Stream Corridor Protection Zone shall be provided along the stream that generally runs east-west along the northern boundary line of this Zoning District. It shall be a minimum of 50 feet in width as measured southward from the centerline of the stream, it being the intent that a similar protection zone shall be provided by the property owners located to the north of the stream. Within the Stream Corridor Protection Zone, no improvements shall be permitted other than landscaping, and an asphalt leisure path running east-west with a location to be approved by City staff. Such leisure path shall connect to New Albany-Condit Road on the east and shall stub to the existing off-site public park to the northwest of this Zoning District.

G. Street Trees: Existing street trees along New Albany Road East shall remain and be maintained. Street trees shall be installed on New Albany-Condit Road at the rate of 4 trees per 100 linear feet. Notwithstanding the foregoing, tree spacing on public streets may deviate from this spacing requirement if necessary or appropriate to provide a desirable streetscape, as approved by City staff. Street trees shall be a minimum of 3 inches in caliper at installation. Trees shall not obstruct sight distance or signage, subject to staff approval. All street trees that are not installed prior to infrastructure acceptance shall be bonded to guarantee installation.

H. Stormwater Management: Wet and dry stormwater basins shall conform to the standards set forth in Section 1171.08 of the Codified Ordinances of the City of New Albany.

J. Minimum On-Site Tree Sizes: Unless otherwise set forth herein, minimum tree size at

installation shall be no less than two and one half (2 ½) inches in caliper for shade trees, six (6) feet in height for evergreen trees, two (2) inches in caliper for ornamental trees, and thirty (30) inches in height for shrubs. Caliper shall be measured six (6) inches above grade.

VIII. Lighting:

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

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

C. Lighting details shall be included in the landscape plan which is subject to review and approval by the City Landscape Architect.

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

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

F. Security lighting shall be of a motion sensor type.

G. All other lighting on the site shall be in accordance with City Code. Street lighting must meet the City standards and specifications.

H. Utilities: All new utilities installed solely to serve this Zoning District shall be installed underground. Solar Panels may be incorporated and installed as appropriate.



RESOLUTION R-54-2023

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE SECOND AMENDMENT TO THE 2014 LEASE AGREEMENT AND 2023 AMENDED OPERATING AGREEMENT WITH HEALTHY NEW ALBANY

WHEREAS, in September of 2014, the City of New Albany and Healthy New Albany entered into a lease agreement that granted Healthy New Albany the use of approximately 5,000 square feet in the Heit Center for the purpose of providing to the community a variety of programs and to enhance community health and wellness, including the Senior Connections Program; and

WHEREAS, in order to support Healthy New Albany and facilitate its development of community programs, the City of New Albany charged no “Base Rent” for the leased space, but required the payment of “Additional Rent” which included Healthy New Albany’s proportionate share of costs associated with utilities, building maintenance, and property taxes; and

WHEREAS, in 2022, the City of New Albany assumed ownership of the Senior Connections Program in order to facilitate its growth and enable Healthy New Albany to focus on programs more closely related to its core mission; and

WHEREAS, the city’s use of the Heit Center and Healthy New Albany’s leased space for expanded Senior Connections programming is expected to increase substantially in the coming years; and

WHEREAS, the City of New Albany wishes to offset its increased use of Healthy New Albany’s leased Heit Center space through the implementation of a “Rent Holiday” that will forgive Healthy New Albany’s “Additional Rent” for a defined period of three years.

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

Section 1. A “Rent Holiday” shall be granted to Healthy New Albany for a period of three years, commencing January 1, 2024, and ending December 31, 2026, in exchange for the city’s expanded use of Healthy New Albany’s leased Heit Center space in the manner described in the 2023 Amended Operating Agreement between the city and Healthy New Albany.

Section 2. The city manager is hereby authorized to execute a Second Amendment to the Lease Agreement with Healthy New Albany in a form substantially similar to the document attached hereto as Exhibit A.

Section 3. The city manager is hereby authorized to execute the 2023 Amended Operating Agreement attached hereto as Exhibit B and make further amendments, as necessary, during the remainder of the lease with Healthy New Albany for the benefit of the city.

Section 4. 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 121.22 of the Ohio Revised Code.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2023.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared: 11/17/2023

Introduced: 12/05/2023

Revised:

Adopted:

Effective:

Exhibit A – R-54-2023

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (“Second Amendment”) is made effective _____, 2023 (the “Effective Date”), by and between the City of New Albany, Ohio, an Ohio municipal corporation (“Landlord”) and Healthy New Albany, a 501(c)(3) nonprofit corporation (“Tenant”). For purposes of this Second Amendment, Landlord and Tenant shall collectively be referred to as “the Parties.” To the extent that terms are not defined herein, they shall have the same meaning as set forth in the Lease Agreement previously signed by the Healthy New Albany and the City of New Albany, Ohio on or around September 16, 2014 and September 22, 2014, respectively.

WHEREAS, in or around September 2014, the parties entered into a Lease Agreement regarding approximately 5,000 leasable square feet of space;

WHEREAS, the Term/Renewal Terms agreed upon by the Parties are, generally, set forth in §2. of the Lease Agreement;

WHEREAS, §3. of the Lease Agreement indicates Tenant shall pay Landlord, no Base Rent, but §4. defines the “Additional Rent” to be paid to Landlord by Tenant;

WHEREAS, the Parties have met, discussed and agreed upon a Joint Operating Agreement referred to as “the Operations Agreement,” effective _____, 2023;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are expressly acknowledged, the Parties hereby agree in this Second Amendment as follows:

RENT HOLIDAY As a result of the parties’ agreement regarding and implementation of the terms of the Operations Agreement attached hereto as Exhibit __, for purposes §4. Additional Rent, the parties amend the Lease Agreement and hereby agree as follows:

For a three (3) year period commencing January 1, 2024 and concluding December 31, 2026, Tenant shall pay Landlord no “Additional Rent” or any other payments other than as follows: Tenant shall pay for (1) the costs of any improvements requested by Tenant for its benefit during the 3-year period; and (2) Tenant shall continue to be responsible for costs related to specialized utilities services as described in §17.

Upon the conclusion of the “Rent Holiday” on December 31, 2026, Tenant shall be responsible for all “Additional Rent” and other payments as same may become due and payable following the Rent Holiday and as agreed upon prior to the execution of this Second Amendment

All other provisions of the Lease Agreement, and any effective Amendment to the Lease Agreement between the parties, unless explicitly modified herein shall continue as previously agreed to by the parties.

Representations, Warranties and Covenants of the Landlord Landlord hereby affirms and restates any and all representations, warranties and covenants made to Tenant in the Lease Agreement and that the same are true and accurate as of the Effective Date of this Second Amendment. Landlord further represents and warrants that it has the full power and authority to enter into this Second Amendment, to perform its obligations hereunder, whereupon this Second Amendment became, and is, a valid and binding obligation and enforceable against Landlord in accordance with these terms.

General Representations of Tenant Tenant hereby affirms and restates any and all representations, warranties and covenants made to Landlord in the Lease Agreement and that the same are true and accurate as of the Effective Date of this Second Amendment. Tenant hereby represents and warrants that it has the full power and authority to enter into this Second Amendment and to perform its obligations hereunder, whereupon this Second Amendment became, and is, a valid and binding obligation, enforceable against Tenant in accordance with its terms.

Amendment Prevails Except as expressly modified herein, all the terms, provisions and conditions of the Lease Agreement are hereby ratified and shall remain in full force and effect. In the event of any conflict between the terms of this Second Amendment and the terms of the Lease Agreement, the terms of this Second Amendment are paramount and shall control and the Lease Agreement shall be construed accordingly.

Counterparts This Second Amendment may be executed in any number of counterparts, each of which when so executed and delivered (by electronic means or otherwise) shall be deemed an original, and it shall not be necessary in making proof of this Second Amendment to produce or account for more than one such fully executed counterpart.

Entire Agreement This Second Amendment, including the Exhibit(s), hereto, sets forth the entire Agreement between the Parties with respect to the amendment of the Lease Agreement. Any prior conversations and writings are merged herein and extinguished.

[Signature page follows]

FOR TENANT

HEALTH NEW ALBANY,
A 501(C)(3) Nonprofit Corporation

By: _____

Accepted by:

By: _____

FOR LANDLORD

THE CITY OF NEW ALBANY
an Ohio Municipal Corporation

By: _____

Approved as to Form:

By: _____

NOTARY INFORMATION TO BE ADDED

Exhibit B - R-54-2023

Operations Agreement

for the operation of a portion of the

Philip Heit Center for Healthy New Albany

between and among

the City of New Albany and Healthy New Albany 501(C)(3)

Dated

November 27, 2023

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Joint Operating Agreement

THIS AGREEMENT, entered into this —— day of December, 2023, between and between the City of New Albany, an Ohio Municipal Corporation (“City” or “Landlord”) and Healthy New Albany, 501 (C)(3) Corporation (“Tenant”);

WITNESSETH THAT:

WHEREAS, New Albany City Council previously authorized the design and construction of a 55,000 square foot health anchor facility in New Albany’s Village Center that combines healthcare, individual fitness and community wellness activities all under one roof; and

WHEREAS, the Tenant has leased approximately 5,000 square feet within the Philip Heit Center for Healthy New Albany, located at the southwest quadrant of the intersection of Main Street and Village Hall Road in the City of New Albany; and

WHEREAS, the aforementioned Lease between the Tenant and the Landlord (collectively “parties”) contemplates that the Tenant’s utilization of its leasehold interest shall be subject to the Landlord’s reservation of the right to utilize the Tenant’s Leased Premises for its own purposes, including use by the general public and programming for seniors in the community. Pursuant to said Lease, this document will serve as the Operations Agreement (Agreement) and will set forth the Landlord’s shared use of the Tenant’s space as well as additional operational issues related to the administration of the Landlord’s senior programming.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained and for good and valuable consideration, the receipt of which is hereby acknowledged, the parties covenant and agree as follows:

Article I – Background

The parties hereto have entered into a document entitled Lease Agreement between the City of New Albany, an Ohio Municipal Corporation, (“Landlord”) and Healthy New Albany 501(c)(3) non-profit corporation, (“Tenant”) on the same date as this Operations Agreement. Pursuant to the Lease, the Landlord leased approximately 5,000 square feet of space within the +/- 51,764 square foot mixed-use wellness building located at the southwest quadrant at the intersection of Main Street and Village Hall Road in the City of New Albany, as is more fully referenced in the Lease Agreement. Section 1 of the aforementioned Lease Agreement includes a provision which provides that:

“The Landlord hereby reserves the right to utilize Leased Premises for its own purposes including use by the general public as agreed to by the parties and documented in an Operations Agreement which will be entered into between the parties at the same time as this Lease is executed. The Operations Agreement will specify the Landlord’s rights to utilize and program certain portions of the Leased Premises.

Each year the Landlord and Tenant will meet during the month of January to discuss whether modifications to the Operation

Agreement are warranted. Unless the parties agree to modify the Operations Agreement in writing, at such annual meeting, or from time to time as the parties shall determine, the Agreement shall remain in place.”

Article II - Priority of Use

2.1 Overview

It is the intention of the parties to provide private office space for the Tenant, to provide “lounge space and meeting space where the general public can “drop in” and socialize on an informal, impromptu basis, provide space for the Landlord’s senior programming, as well as space for planned meetings and planned community activities of both the Landlord and Tenant. The parties agree to work cooperatively as set forth herein to facilitate and maximize all intended uses of the Leased Premises.

It is anticipated that planned meetings, programs and activities will be developed and implemented by the Landlord and Tenant. Therefore, the parties agree that the Landlord and Tenant will meet annually to establish a comprehensive schedule for the use of the various meeting spaces. Additionally, the Landlord and Tenant will meet three times a year (triannual basis) to update the comprehensive schedule for the next four months as necessary. The comprehensive schedule shall generally align with the scheduling priorities outlined herein, however at each triannual meeting the parties will discuss the release of reserved space that is no longer needed. The Landlord will have right of first refusal for the scheduling of Senior Connections programs in Areas C and D, Monday through Friday between 12 noon and 5 p.m.; and the Tenant’s use of these

Areas shall not interfere with Senior Connections programming. Likewise, the Landlord shall have priority use of Areas C, F and G on Thursday of each week between 8 a.m. and 12 noon; however, the Parties will ensure that the Tenant has adequate space within Areas C, D, F and G to prepare for and conduct major fundraising events such as the New Albany Walking Classic. For the seven days prior to each New Albany Walking Classic, Landlord will waive their scheduling priorities in the following manner. Landlord will not hold programs in Areas F or G on the Thursday before the Walking Classic. Landlord will not hold programs or use Area D on the Monday – Friday before the Walking Classic. Landlord will not hold programs in Area C the Thursday and Friday before the Walking Classic, however Area C must be available for the use of the general public for the entire week. Tenant may request Landlord to move programs into other areas during this week, however Tenant will provide adequate tables and chairs if moving Landlord programs into another area. Deviations from the scheduling priorities for other Tenant fundraising events will be discussed at the triannual meetings. Tenant will coordinate with the other tenants to ensure that the building is secured when not in use, work cooperatively and communicate regularly with other tenants in the building, as well as the Landlord, regarding any areas of concerns.

2.2 Specific Uses

Landlord and Tenant agree that the specific area within the Leased Premises, as depicted on Exhibit B, will be used and programmed in the following manner:

Area A:

This area shall be reserved for the exclusive use of the Tenant and may be used in any reasonable manner as the Tenant may determine as set forth in the Lease.

Area B:

This area will be utilized primarily by the Tenant. However, the Tenant shall allow reasonable ingress and egress through the Area B in order for the general public to have access to Area C. Members of the general public and/or the Landlord will be permitted to use Area B for informal, overflow social space, meetings and other uses during times when such space is not being actively programmed by the Tenant for other purposes and does not interfere with the Tenant's use of Area A.

Areas D, F, G:

These areas will be utilized primarily by the Landlord and Tenant for scheduled programs; or by Landlord for civic purposes. When not being used for scheduled programs, the Tenant may rent the space for private gatherings, meetings or events. The Landlord's and Tenant's use of these areas shall be scheduled in advance on a triannual basis with priority given to Senior Connections programs, and shall be incorporated in the Activity Calendar. Landlord will have right of first refusal for the scheduling of Senior Connections programs in Area D, Monday through Friday between 12 noon and 5 p.m.; and Tenant's use of these Areas shall not interfere with Senior Connections programming. Landlord shall have priority use of Areas F and G on Thursday of each week between 8 a.m. and 12 noon; however, the Parties will ensure that Tenant has adequate space within Areas F and G to prepare for and conduct major fundraising events such as the New Albany Walking Classic.

Areas C, H, I and J:

These areas will be primarily utilized by members of the general public as a “drop in” space where they can socialize on an informal, impromptu basis when not being used by the Landlord for Senior Connections programs. This space may also be used for more formal meetings by the general public, the Landlord or the Tenant, provided, however, that such uses do not entirely preclude the use of the Area for its primary function. Landlord will have right of first refusal for the scheduling of Senior Connections programs in Area C, Monday through Friday between 12 noon and 5 p.m.; and Tenant’s use of these Areas shall not interfere with Senior Connections programming. The Landlord and Tenant shall coordinate the formal programming of the space with the City Manager or designee.

Area E:

This area will be used by the Landlord and Tenant for storage.

Area K:

This area will be used by the Landlord and Tenant for storage. Landlord will have access to the kitchenette in Area K at all times.

Article III - Activity Calendar

At the annual meeting provided for in the Lease between the parties, the Landlord and Tenant shall meet to set the triannual meetings for the upcoming year, identify any major fundraising events known at that time and develop a detailed program calendar (“Activity

Calendar”) which shall be consistent with the Priority of Use provision set forth in Section II herein. This Activity Calendar shall set forth all currently known events and activities scheduled to occur during the calendar year and shall identify the specific area(s) from Exhibit B where such activities will take place. The Activity Calendar may be modified and amended three times a year to reflect unanticipated scheduling changes that occur during the year. All changes to the Activity Calendar will be submitted electronically by the Tenant to the Landlord for review and approval. Any accommodations made between the parties which deviate from this schedule shall not affect the approved Activity Calendar.

Article IV - Dispute Resolution

In the event a scheduling dispute shall arise regarding the use and operation of the Leased Premises the Parties’ representatives shall meet to attempt to resolve such issues. Should they be unable to reach a resolution, they shall refer the scheduling dispute to the City Manager or designee and the Tenant’s Director or designee. Should they be unable to resolve the dispute, such issues shall be resolved by the Mayor, the Chair of the Healthy New Albany Board and a resident of the City mutually agreed upon by the Mayor and the Chair of the Healthy New Albany Board.

In the event of a conflict between this Agreement and the Lease, the provisions of the Lease shall control.

Article V – Senior Programming

The Landlord shall administer a program called Senior Connections for community members that are over 55 years old from the Philip Heit Center for Healthy New Albany. The

Landlord may use Tenant's instructors to provide senior programs throughout the year. Landlord will use Exhibit B to determine the rates and costs for each program that uses Tenant's instructors.

The Landlord and Tenant shall partner on the collection of fees related to the operation of the Senior Connections Program, as shown on Exhibit C, including but not limited to the following: the Landlord shall pay the Tenant for professional instructional services provided by the Tenant; the Landlord and Tenant shall share the cost of the operation of RecDesk (the Landlord shall pay 25% of the \$3,400 annual fee); the Landlord shall pay the Tenant for Merchant Services Fees for enrollments and memberships to the Senior Connections Program; the Landlord shall be responsible for all costs associated with Senior Connections Program Scholarships (which may only be granted by City of New Albany staff).

The Landlord and Tenant shall also partner on the collection of revenues related to the operation of the Senior Connections Program including but not limited to the following: 2023 Senior Connections Membership Dues shall be collected by the Tenant and paid to the Landlord; and 2023 Senior Connection Program Fees shall be collected by the Tenant and paid to the Landlord.

Article VI – Miscellaneous

6.1 Conflict

In the event of a conflict between this Operations Agreement and the Lease Agreement, the provisions of the Lease Agreement shall control.

6.2 Complete Agreement

This document, with its Exhibits (which are hereby incorporated herein by reference) contains the entire Agreement between the parties and supersedes any prior discussions, representations, warranties, or agreements between them respecting the subject matter. No changes, alterations, modifications, additions or qualifications to this Agreement shall be made or binding unless made in writing and signed by each of the parties.

VI. Signatures

The City of New Albany

By: _____
Joseph F. Stefanov
City Manager

Healthy New Albany

By: _____

STATE OF OHIO
FRANKLIN COUNTY

This document was acknowledged before me on _____, 2023, by Joseph F. Stefanov, New Albany City Manager.

Notary Public

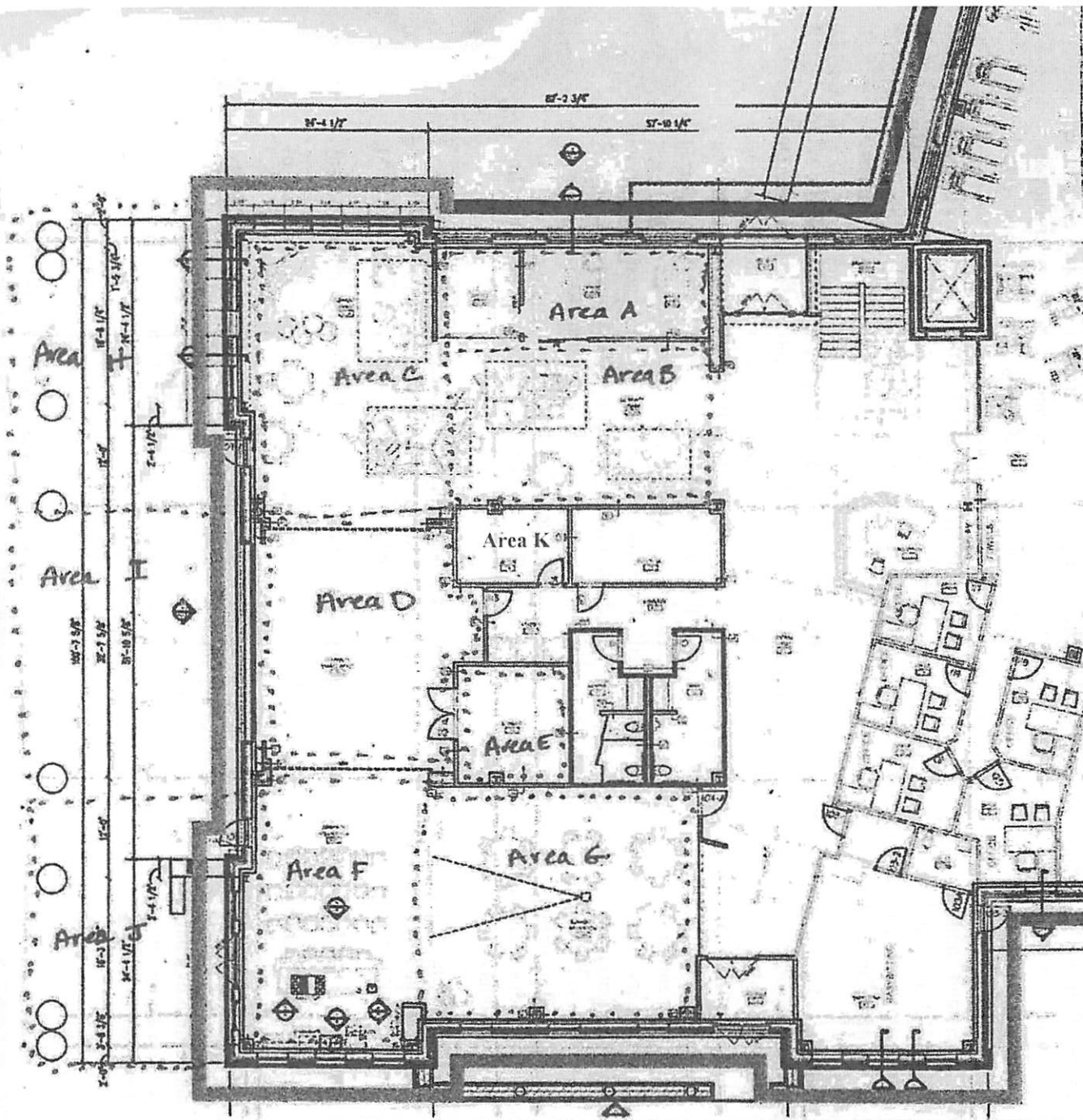
STATE OF OHIO
Franklin COUNTY

This document was acknowledged before me on _____, 2023, by
_____, the _____ of
_____, a(n) _____ on behalf
of Tenant.

Notary Public

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Exhibit A





PROGRAM AGREEMENT FORM

For all classes/programs offered from
1/1/23 – 12/31/22 and specified in the attached exhibit.

Name

Email

Address

Phone

As a contractual partner with the City of New Albany, I acknowledge and agree to the following liability and financial statements and requirements for all instruction that I/my agency provide during the 2023 calendar year.

1. I agree to defend, indemnify and hold harmless the City of New Albany, its officers, employees and insurers from and against all liability, claims, and demands, court costs, attorneys' fees, including those arising from a third party claim asserted against the City of New Albany, its officers, employees, volunteers and insurers on account of injury, damage, or any other loss of any kind whatsoever, which arise out of or are in any way related to my instruction and the activities of the program.
I understand and agree that this FULL AND FINAL RELEASE OF LIABILITY AND INDEMNIFICATION AGREEMENT shall be governed by the laws of the State of Ohio, and that jurisdiction and venue for any suit or cause of action under this AGREEMENT shall lie in the courts of Franklin County, Ohio.
2. It is the responsibility of my agency to secure and maintain, at my/their own expense, General Liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence. The General Liability insurance shall not exclude abuse and molestation coverage.
The City of New Albany shall be held harmless for any damage to my/my agency's property and/or equipment during the course of performance under this agreement.
The aforementioned insurance shall be maintained in full force and effect during the life of this agreement and for one year beyond, where specified. Certificates showing that I/my agency is carrying the aforementioned insurance in at least the specified minimum amounts shall be furnished to, and approved by, the City of New Albany prior to the start of any class/program/instruction, and before New Albany is obligated to make any payments to me/my agency for the instruction provided under the provisions of this agreement. An endorsement to the General Liability policy shall name the City of New Albany as an additional insured.
3. I, and my agency, agree to receive compensation as outlined in the attached Exhibit per participant and/or per class for each program specified in the Exhibit. We understand that payments are processed after the final program date, and are based on the City's registration system (for enrollment numbers).
4. I understand that I, or my agency, is required to pay tax on income earned in the City of New Albany.
5. This Program Agreement may be terminated or suspended by the City of New Albany in the event of catastrophic weather damage, property damage, or grounds damage that makes a facility not in compliance with requirements of the State Fire Marshal, the Department of Public Health and Safety or any order, statute, rule or regulation of any federal, state or local authority, or in the event of: any declaration of a national, state or local emergency; acts of god including fire, flood, explosion, earthquake, or other natural forces; epidemic; terrorism; war; civil unrest; accident; strike or labor disturbance.

PROGRAM AGREEMENT FORM

For all classes/programs offered from
1/1/23 – 12/31/22 and specified in the attached exhibit.

As a contractual partner with the City of New Albany, I acknowledge and agree to the following instructor statements and requirements for all instruction that I/my agency provide during the 2023 calendar year:

1. I, and my agency representatives, are responsible for reviewing and understanding the City of New Albany emergency procedures for fire, tornado, inclement weather, incidents and accidents for the facilities and parks that we provide services/programs in. We take responsibility of ensuring the safety for each participant during class for all weather related issues, incidents and accidents.
2. I, and my agency representatives, understand that this Program Agreement may be terminated or suspended, in consultation with me, before a class/program has begun, based on low participation.
3. I, and my agency representatives, understand that classes/programs may be cancelled due to severe weather. This decision is based on the New Albany Plain Local School District inclement weather choices. When school is cancelled, all morning classes/programs are cancelled. Decisions about evening classes that take place after 4:00 PM are made by the administrative team and communicated by 2:00 PM. On weekends or holidays when school is not in session, the administrative team will make a decision and communicate that decision as soon as possible prior to the start of the first scheduled class/program.
4. I, and my agency representatives, understand that if we need to miss a class due to illness or other emergency that we need to notify the Community Program Administrator as soon as possible, and at a minimum of two hours before the start of my program/class.
5. I, and my agency representatives, are responsible for clear and consistent communication with the Community Program Administrator for all information pertaining to our services/programs from the time we agree to provide instruction, through the duration of the service/program and until final payment has been made.

This Agreement is valid for the date range of 1/1/2023 to 12/31/2023. This Agreement is intended to cover all instruction conducted by the undersigned contractor including different classes and subject areas. This is the sole Agreement entered between the City and the Contractor and its terms extend to all instruction provided by the Contractor.

The City of New Albany and Contractor agree that if the scope of work/classes/instruction change throughout the year then all parties agree that the Exhibit will be amended and that the terms of the original agreement apply to that amended Exhibit. The contractor shall initial the amended Exhibit unless the contractor expressly requests an amended Agreement.

Agency Representative Signature

Date

Community Program Administrator Signature

Date

PROGRAM AGREEMENT FORM

For all classes/programs offered from
1/1/23 – 12/31/22 and specified in the attached exhibit.

Exhibit A

This agreement calls for you to instruct the following programs/classes:

Program Name and Brief Description	
Instructor Name	Fee (paid to contractor)
Date(s)	Time(s)
Contractor Initials	Date

Program Name and Brief Description	
Instructor Name	Fee (paid to contractor)
Date(s)	Time(s)
Contractor Initials	Date

Program Name and Brief Description	
Instructor Name	Fee (paid to contractor)
Date(s)	Time(s)
Contractor Initials	Date

Exhibit C

EXPENSES					
Expenses	Incurred By	Paid By	Paid To	Calculated By	Due
Other Professional Services (contractual instruction provided by HNA Staff)	City of New Albany	City of New Albany	Healthy New Albany	Agreed upon contractual rates	Quarterly
RecDesk	Healthy New Albany	City of New Albany & Healthy New Albany	Healthy New Albany	25% of \$3,400 annual fee (calculated by the Financial Transaction Details report in RecDesk and based on 22% usage in 2022)	Quarterly
Merchant Services Fees for Senior Connections paid enrollments/memberships	Healthy New Albany	City of New Albany	Healthy New Albany	Revenue By Period GL Account Detail report in RecDesk	Quarterly
Senior Connections Program Discounts for New Albany residents	Healthy New Albany	City of New Albany	Healthy New Albany	Program rosters available in RecDesk. The City of New Albany will calculate monthly and share with Healthy New Albany for auditing purposes. Please note, only New Albany resident discounts will be reimbursed to Healthy New Albany in 2023.	Quarterly
SC Scholarships	City of New Albany	City of New Albany	N/A	The City of New Albany is responsible for all costs associated with Senior Connections scholarships (which can only be granted by City of New Albany staff)	N/A
REVENUE					
Revenue	Collected By	Owed To	Paid To	Calculated By	Due
2023 Senior Connections Membership Dues	Healthy New Albany	City of New Albany	City of New Albany	Revenue By Period - Detail report (under Money Reports) in RecDesk (use Gross as CC fees are accounted for in Merchant Services line item above)	Quarterly
2023 Senior Connections Program Fees	Healthy New Albany	City of New Albany	City of New Albany	Revenue By Period - Detail report (under General Ledger Reports) in RecDesk (use Gross as CC fees are accounted for in Merchant Services line item above)	Quarterly



RESOLUTION R-56-2023

A RESOLUTION REQUESTING THE FRANKLIN COUNTY BOARD OF ELECTIONS TO WITHDRAW THE PROPOSED BALLOT QUESTION OF WHETHER THE SALE OF BEER AND INTOXICATING LIQUOR SHALL BE PERMITTED WITHIN THE BOUNDARIES OF THE HAMLET AT SUGAR RUN AS SET FORTH IN ORDINANCE O-81-2023

WHEREAS, council adopted Ordinance O-79-2023 on August 1, 2023, approving the application establishing the Hamlet at Sugar Run Community Entertainment District; and

WHEREAS, council adopted Ordinance O-81-2023 on August 1, 2023, which became effective on August 31, 2023, requesting the Board of Elections to submit the question of whether the sale of beer and intoxicating liquor would be permitted within the boundaries of the Hamlet at Sugar Run, and the adopted ordinance was submitted to the Franklin County Board of Elections on November 14, 2023; and

WHEREAS, subsequent to the submission of Ordinance O-81-2023 to the Franklin County Board of Elections, information became available indicating that the area containing the Hamlet at Sugar Run Community Entertainment District is not completely dry, but rather mostly wet; and

WHEREAS, the wet status of the area containing the Hamlet at Sugar Run Community Entertainment District means that the submission of Ordinance O-81-2023 to the Franklin County Board of Elections is no longer necessary.

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 request in Section 1 of Ordinance O-81-2023 is hereby rescinded.

Section 2. The question submitted by Ordinance O-81-2023 to the Franklin County Board of Elections on November 14, 2023 (receipt #7504) should be withdrawn from the March 19, 2024 ballot as this council hereby determines to request its removal.

Section 3. That the clerk of council is hereby directed to deliver a certified copy of this completed resolution via email to the Franklin County Board of Elections not later than 4:00 PM on December 20, 2023.

Section 4. 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 121.22 of the Ohio Revised Code.

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

CERTIFIED AS ADOPTED this _____ day of _____, 2023.

Attest:

Sloan T. Spalding
Mayor

Jennifer H. Mason
Clerk of Council

Approved as to form:

Benjamin S. Albrecht
Law Director

Legislation dates:

Prepared:	12/07/2023
Revised:	12/11/2023
Introduced:	12/19/2023
Adopted:	
Effective:	