



**ORDINANCE O-45-2024**

**ANNUAL APPROPRIATION ORDINANCE**

**AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NEW ALBANY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2025**

**WHEREAS**, Ohio Revised Code §5705.38(A) requires the taxing authority of each political subdivision to pass an annual appropriation measure on or about the first day of each year; and

**WHEREAS**, Council for the City of New Albany, State of Ohio, wishes to fund the city's current expenses and other expenditures during fiscal year 2025.

**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.** To provide for the current expenses and other expenditures within the 2025 Annual Budget Program of the City of New Albany during the fiscal year ending December 31, 2025, the annual sums as follows are hereby set aside and appropriated:

Fund	Department	Category	Amount
General	Police	Personal Services	9,280,011
General	Police	Operating and Contractual Services	640,161
General	Community Development	Personal Services	3,608,741
General	Community Development	Operating and Contractual Services	2,672,400
General	Public Service	Personal Services	4,844,077
General	Public Service	Operating and Contractual Services	3,026,650
General	Land & Building Maintenance	Personal Services	1,033,731
General	Land & Building Maintenance	Operating and Contractual Services	2,798,750
General	Council	Personal Services	567,816
General	Council	Operating and Contractual Services	82,400
General	Administrative Services	Personal Services	3,664,212
General	Administrative Services	Operating and Contractual Services	3,273,447
General	Finance	Personal Services	1,361,480
General	Finance	Operating and Contractual Services	1,281,850
General	Legal	Personal Services	500
General	Legal	Operating and Contractual Services	383,500

Fund	Department	Category	Amount
General	General Administration	Personal Services	273,200
General	General Administration	Operating and Contractual Services	1,413,600
General	N/A	Transfers & Other Financing Uses	11,480,643
		<b>Total General Fund</b>	<b>51,687,170</b>

Fund	Department	Category	Amount
Severance Liability	General Administration	Personal Services	220,000
Street Construction, Maintenance & Repair	Public Service	Operating and Contractual Services	155,000
Street Construction, Maintenance & Repair	N/A	Capital	500,000
State Highway	Public Service	Operating and Contractual Services	20,000
State Highway	N/A	Capital	20,000
Permissive Tax	Public Service	Operating and Contractual Services	155,000
Permissive Tax	N/A	Capital	30,000
Alcohol Education	Police	Operating and Contractual Services	1,000
Drug Use Prevention Program Grant	Police	Personal Services	15,000
Drug Use Prevention Program Grant	Police	Operating and Contractual Services	10,000
Law Enforcement & Education	Police	Operating and Contractual Services	2,250
OneOhio Opioid	Police	Operating and Contractual Services	2,000
K-9 Patrol	Police	Personal Services	17,500
K-9 Patrol	Police	Operating and Contractual Services	3,000
Safety Town	Police	Operating and Contractual Services	39,200
DUI Grant	Police	Personal Services	10,000
DUI Grant	Police	Operating and Contractual Services	2,000
Law Enforcement Assistance	Police	Personal Services	1,200
Economic Development (NACA)	Community Development	Operating and Contractual Services	2,779,800
Economic Development (NACA)	Public Service	Operating and Contractual Services	690,000
Economic Development (NACA)	N/A	Transfers & Other Financing Uses	30,200
Economic Development (NAECA)	N/A	Transfers & Other Financing Uses	12,149,378
Local Fiscal Recovery	N/A	Capital	33,046,603
Hotel Excise Tax	Community Development	Operating and Contractual Services	200,000
Healthy New Albany Facilities	General Administration	Operating and Contractual Services	93,000
Healthy New Albany Facilities	Land & Building Maintenance	Operating and Contractual Services	960,000
Healthy New Albany Facilities	N/A	Transfers & Other Financing Uses	374,900
Hinson Amphitheater Fund	General Administration	Operating and Contractual Services	60,000
Alcohol Indigent	Administrative Services	Operating and Contractual Services	1,000
Mayors Court Computer	Administrative Services	Operating and Contractual Services	1,000
Court Special Projects	Administrative Services	Operating and Contractual Services	1,000
Clerk's Office Computer	Administrative Services	Operating and Contractual Services	1,000
Subdivision Development	Community Development	Operating and Contractual Services	1,000,000
Builder's Escrow	Community Development	Operating and Contractual Services	600,000

Fund	Department	Category	Amount
Oak Grove EOZ	Community Development	Operating and Contractual Services	4,893,081
Central College EOZ	Community Development	Operating and Contractual Services	2,278,703
Oak Grove II EOZ	Community Development	Operating and Contractual Services	4,712,864
Blacklick EOZ	Community Development	Operating and Contractual Services	4,853,714
Windsor TIF	General Administration	Operating and Contractual Services	955,000
Windsor TIF	N/A	Transfers & Other Financing Uses	5,736,680
Wentworth Crossing TIF	General Administration	Operating and Contractual Services	158,000
Wentworth Crossing TIF	N/A	Transfers & Other Financing Uses	160,000
Hawksmoor TIF	General Administration	Operating and Contractual Services	82,000
Hawksmoor TIF	N/A	Transfers & Other Financing Uses	132,101
Endave TIF	General Administration	Operating and Contractual Services	29,000
Endave TIF	N/A	Transfers & Other Financing Uses	30,000
Saunton TIF	General Administration	Operating and Contractual Services	72,000
Saunton TIF	N/A	Transfers & Other Financing Uses	120,000
Richmond Square TIF	General Administration	Operating and Contractual Services	94,000
Richmond Square TIF	N/A	Transfers & Other Financing Uses	88,381
Tidewater I TIF	General Administration	Operating and Contractual Services	205,000
Tidewater I TIF	N/A	Transfers & Other Financing Uses	300,000
Ealy Crossing TIF	General Administration	Operating and Contractual Services	182,500
Ealy Crossing TIF	N/A	Transfers & Other Financing Uses	250,000
Upper Clarenton TIF	General Administration	Operating and Contractual Services	268,000
Upper Clarenton TIF	N/A	Transfers & Other Financing Uses	292,100
Balfour Green TIF	General Administration	Operating and Contractual Services	14,000
Balfour Green TIF	N/A	Transfers & Other Financing Uses	18,380
Straits Farm TIF	General Administration	Operating and Contractual Services	420,000
Oxford TIF	General Administration	Operating and Contractual Services	33,000
Oxford TIF	N/A	Transfers & Other Financing Uses	149,000
Schleppi (Residential) TIF	General Administration	Operating and Contractual Services	160,000
Schleppi (Residential) TIF	N/A	Transfers & Other Financing Uses	240,000
Blacklick TIF	General Administration	Operating and Contractual Services	2,238,000
Blacklick TIF	N/A	Capital	3,500,000
Blacklick TIF	N/A	Transfers & Other Financing Uses	270,812
Blacklick II TIF	General Administration	Operating and Contractual Services	15,700
Village Center TIF	General Administration	Operating and Contractual Services	715,000
Village Center TIF	N/A	Transfers & Other Financing Uses	500,000
Research & Technology District TIF	General Administration	Operating and Contractual Services	55,000
Oak Grove II TIF	General Administration	Operating and Contractual Services	527,500
Oak Grove II TIF	N/A	Capital	6,500,000
Village Center II TIF	General Administration	Operating and Contractual Services	278,500
Village Center II TIF	N/A	Transfers & Other Financing Uses	221,500
		<b>Total Special Revenue Funds</b>	<b>94,940,546</b>

Fund	Department	Category	Amount
Debt Service	N/A	Debt Service	28,559,373
		<b>Total Debt Service Funds</b>	<b>28,559,373</b>
Fund	Department	Category	Amount
Capital Improvement	N/A	Capital	16,935,000
Capital Improvement	Finance	Operating and Contractual Services	115,000
Village Center Improvement	N/A	Capital	7,500,000
Village Center Improvement	Finance	Operating and Contractual Services	15,000
Park Improvement	N/A	Capital	3,715,000
Park Improvement	Finance	Operating and Contractual Services	30,000
Leisure Trail Improvement	N/A	Capital	450,000
Bond Improvement	N/A	Capital	54,700,000
Bond Improvement	N/A	Debt Service	300,000
Infrastructure Replacement	Finance	Operating and Contractual Services	11,000
Capital Equipment Replacement	N/A	Capital	2,104,300
Oak Grove II Infrastructure	Finance	Operating and Contractual Services	75,000
Oak Grove II Infrastructure	N/A	Transfers & Other Financing Uses	3,500,000
Economic Development Capital	Finance	Operating and Contractual Services	60,000
Economic Development Capital	N/A	Capital	46,306,773
		<b>Total Capital Projects Funds</b>	<b>135,817,073</b>
		<b>Total All Funds</b>	<b>311,004,163</b>

**Section 2.** To affect the purposes of the foregoing appropriations, the city manager is authorized to enter into agreements on such terms determined in the city manager's discretion, consistent with all other ordinances and resolutions in effect and enacted from time to time.

**Section 3.** The director of finance is authorized to allocate the appropriations for a department within activities. Except as provided in Section 4 and Section 5, the director of finance is authorized to approve transfers between activities, provided that funds may not be transferred between appropriation line items.

**Section 4.** The director of finance is authorized to transfer up to \$10,000 per quarter between appropriation line items, provided that such transfers are within the same fund and department, where applicable.

**Section 5.** The director of finance is authorized to transfer appropriations between the General fund and various special revenue funds, which include the police department, provided that such transfers are for an expense meeting the restrictions of said fund or funds, where applicable.

**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 \_\_\_\_\_, 2024.

**Attest:**

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

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

**Approved as to form:**

\_\_\_\_\_  
Benjamin S. Albrecht  
Law Director

<b>Legislation dates:</b>	
Prepared:	11/05/2024
Introduced:	11/19/2024
Revised:	11/25/2024
Adopted:	
Effective:	



**ORDINANCE O-46-2024**

**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, 2024 AND TO AUTHORIZE A TRANSFER FROM THE BLACKLICK TAX INCREMENT FINANCING FUND**

**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.

**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, 2024:

Fund	Department	Category	Increase/ (Decrease)
101 - General	Finance	Operating and Contractual Services	\$ 140,000
101 - General	General Administration	Operating and Contractual Services	40,000
222 - Economic Development - NACA	Community Development	Operating and Contractual Services	1,500,000
236 - Ealy Crossing TIF	General Administration	Operating and Contractual Services	1,300
237 - Upper Clarenton TIF	General Administration	Operating and Contractual Services	1,500
238 - Balfour Green TIF	General Administration	Operating and Contractual Services	200
239 - Straits Farm TIF	General Administration	Operating and Contractual Services	1,000
240 - Oxford TIF	General Administration	Operating and Contractual Services	600
241 - Schleppe Residential TIF	General Administration	Operating and Contractual Services	1,300
250 - Blacklick TIF	General Administration	Operating and Contractual Services	9,000
250 - Blacklick TIF	N/A	Transfers & Other Financing Uses	37,975
252 - Village Center TIF	General Administration	Operating and Contractual Services	3,000
253 - Research & Technology District TIF	General Administration	Operating and Contractual Services	200
254 - Oak Grove II TIF	General Administration	Operating and Contractual Services	6,000
258 - Windsor TIF	General Administration	Operating and Contractual Services	11,000
299 - Severance Liability Fund	General Administration	Personal Services	280,000

Fund	Department	Category	Increase/ (Decrease)
301 - Debt Service Fund	N/A	Debt Service	37,975
403 - Bonded Improvement	N/A	Capital	1,838,000
405 - Water and Sanitary Sewer Improvement	Land & Building Maintenance	Operating and Contractual Services	195,200
		<b>Total Appropriation Amendments</b>	<b>\$ 4,105,350</b>

**Section 2.** Council hereby authorizes a transfer from the Blacklick Tax Increment Financing fund to the Debt Service fund in the amount of \$37,975.

**Section 3.** Council hereby authorizes the finance director to make transfers as needed between appropriation line items of funds 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 4.** Council hereby authorizes the finance director to increase appropriations as needed up to \$100,000 to accommodate unforeseen expenditures and ensure amounts are within appropriations.

**Section 5.** Council hereby authorizes the finance director to adjust appropriations within the following funds in accordance with actual receipts received in 2024 to ensure compliance with ORC 5705.36(A)(4) for the fiscal year ended December 31, 2024:

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 - Schleppi Residential TIF
259 - Village Center II TIF
280 - Hotel Excise Tax

**Section 6.** 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, 2024, so long as compliance with ORC 5705.40 and ORC 5705.41 is maintained.

**Section 7.** 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 8.** 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 \_\_\_\_\_, 2024.

**Attest:**

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Sloan T. Spalding  
Mayor

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Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

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Benjamin Albrecht  
Law Director

**Legislation dates:**

Prepared: 11/22/2024

Introduced: 12/03/2024

Revised:

Adopted:

Effective:

PROPOSAL





**ORDINANCE O-47-2024**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A COOPERATIVE AGREEMENT WITH THE NEW ALBANY EAST COMMUNITY AUTHORITY RELATING TO THE CONSTRUCTION AND FINANCING OF CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS**

**WHEREAS**, the New Albany East Community Authority (the “*Authority*”) was created for the purpose of facilitating private development and the construction of related public infrastructure within the city and authorized the levy of a community development charge (the “*Charge*”) to provide for the payment of the costs of those public infrastructure improvements; and

**WHEREAS**, the city has entered into and will enter into certain agreements providing for the financing and construction of certain of those public infrastructure improvements and has determined, in cooperation with the Authority, that the receipts from the Charge will be used to pay the costs of those public infrastructure improvements; and

**WHEREAS**, the city and the Authority have determined to enter into an agreement, the terms of which are set forth in a substantially final form of Cooperative Agreement, presently on file in the office of the Clerk of Council, to provide for the use of the Charge to pay the costs of those various public infrastructure improvements.

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

**Section 1.** Authorization of Cooperative Agreement. The Cooperative Agreement by and between the City and the Authority, in the form presently on file with the Clerk of Council, providing for, among other things, the pledge by the Authority of the Charge to pay the costs of those various public infrastructure improvements, is hereby approved and authorized with changes therein not inconsistent with this Ordinance and not substantially adverse to this City and which shall be approved by the City Manager. The City Manager, for and in the name of this City, is hereby authorized to execute that Cooperative Agreement, provided further that the approval of changes thereto by that official, and their character as not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This Council further authorizes the City Manager, for and in the name of the City, to execute any amendments to the Cooperative Agreement, which amendments are not inconsistent with this Ordinance and not substantially adverse to this City.

**Section 2.** Further Authorizations. Council further hereby authorizes and directs the City Manager, the Director of Law, the Director of Finance, the Clerk of Council, or other appropriate

officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

**Section 3.** Compliance with Open Meeting Requirements. 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 4.** Effective Date. This ordinance shall be in effect on and after the earliest period allowed by law.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Attest:**

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

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

**Approved as to form:**

\_\_\_\_\_  
Benjamin S. Albrecht  
Law Director

**Legislation dates:**

Prepared: 11/25/2024  
Introduced: 12/03/2024  
Revised:  
Adopted:  
Effective:

Exhibit A - O-47-2024

**COOPERATIVE AGREEMENT**

*by and between*

**CITY OF NEW ALBANY, OHIO**

*and*

**NEW ALBANY EAST COMMUNITY AUTHORITY**

*relating to*

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**DETERMINATION, LEVY AND COLLECTION, AND USE OF COMMUNITY  
DEVELOPMENT CHARGE**

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*Dated as of*

\_\_\_\_\_, 2024/5

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This COOPERATIVE AGREEMENT is made and entered into as of \_\_\_\_\_, 2024/5? (the “*Effective Date*”) by and between the CITY OF NEW ALBANY, OHIO (the “*City*”), a municipal corporation duly organized and validly existing under the Constitution and the laws of the State of Ohio (the “*State*”) and its Charter, and the NEW ALBANY EAST COMMUNITY AUTHORITY (the “*NCA*” and together with the City, the “*Parties*” and each a “*Party*”), a new community authority duly organized and validly existing pursuant to Chapter 349 of the Ohio Revised Code, under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals are being used therein as defined in Article I hereof).

**RECITALS:**

WHEREAS, pursuant to a Petition for Organization of a New Community Authority (the “*Petition*”) filed with the City Council of the City and related proceedings, the NCA was created for various purposes including (a) the determination, levy and collection of an assessed valuation charge in an amount not to exceed 9.75 mills for each \$1,000 of assessed valuation (the “*Community Development Charge*”) and (b) the use of the Community Development Charge to pay the costs of Land Development and Community Facilities (as each term is defined in Section 349.01 of the Ohio Revised Code), including without limitation, associated operating and maintenance costs, third-party consultant fees and expenses, and legal and financial advisory fees and expenses; and

WHEREAS, a Declaration of Covenants and Restrictions (as heretofore or hereafter supplemented or amended in accordance with its terms, the “*Declaration*”) anticipating and relating to the creation of the NCA was executed by MBJ Holdings, LLC on January 7, 2014 and filed in the office of the Licking County Recorder as Instrument Number 201401070000343 and the NCA has joined in that Declaration, and which Declaration provides for the imposition of the Community Development Charge against the referenced real property; and

**WHEREAS**, the Parties have heretofore determined that improving the utility infrastructure serving the real property described in the Declaration by furnishing all labor, materials and equipment for the construction of (i) approximately 6,900 linear feet of 24" to 30" diameter gravity sewer main, approximately 2,000 linear feet of 8" and 10" force main, a pump station along and in the proximity of Beech Road and Worthington Road and a sewer main to the remaining portion of the Beech Road South Industrial Park, (ii) approximately 7,400 linear feet of 12" to 30" ductile iron water main and appurtenances along Beech Road from the Smith's Mill/Beech Road intersection and a water main to the remaining portion of the Beech Road South Industrial Park and (iii) approximately 15,000 linear feet of 36" ductile iron water main and appurtenances east along Morse Road and north along Beech Road along with a new water booster station along Morse Road and a water main to the remaining portion of the Beech Road South Industrial Park (collectively, the "**2018 OWDA Project**") would benefit and be supportive of the development of the NCA as contemplated in the Petition and should accordingly be characterized as a "Community Facility" for purposes of the Petition and the Declaration; and

**WHEREAS**, the City has heretofore entered into a Cooperative Agreement, dated November 9, 2017, which Cooperative Agreement was amended by a First Amendment to that Cooperative Agreement, dated November 8, 2018 (collectively, the "**2018 OWDA Cooperative Agreement**") with the Ohio Water Development Authority ("**OWDA**") to secure a loan in the maximum principal amount of \$24,869,400 (the "**2018 OWDA Loan**") for the purpose of providing monies to pay the costs of the 2018 OWDA Project and that 2018 OWDA Cooperative Agreement provides that the 2018 OWDA Loan shall be repaid from the Community Development Charge and other sources identified in the 2018 OWDA Cooperative Agreement; and

**WHEREAS**, the Parties have heretofore determined that improving the utility infrastructure serving the real property described in the Declaration by furnishing all labor, materials and equipment for the construction of (i) approximately 8,617 linear feet of 48" gravity sanitary sewer and other related items including site work and (ii) approximately 4,791 linear feet of 48", 4,650 linear feet of 30", 1,100 linear feet of 24", and 200 linear feet of 18" gravity sanitary sewer and other related items including site work (collectively, the "**2019 OWDA Project**") would benefit and be supportive of the development of the NCA as contemplated in the Petition and is therefore a "Community Facility" for purposes of the Petition and the Declaration; and

**WHEREAS**, the City has heretofore entered into a Cooperative Agreement, dated March 29, 2019 (the "**2019 OWDA Cooperative Agreement**") with the OWDA to secure a loan in the maximum principal amount of \$11,700,000 (the "**2019 OWDA Loan**") for the purpose of providing monies to pay the costs of the 2019 OWDA Project and that 2019 OWDA Cooperative Agreement provides that the 2019 OWDA Loan shall be repaid from the Community Development Charge and other sources identified in the 2019 OWDA Cooperative Agreement; and

**WHEREAS**, the Parties have heretofore determined that improving the utility infrastructure serving the real property described in the Declaration by furnishing all labor, materials and equipment for the construction of approximately 5,360 linear feet of 48" and 2,800 linear feet of 42" gravity sanitary sewer, including tunneling under S.R. 161 and other related items including site work (collectively, the "**2020 OWDA Project**") would benefit and be supportive of the development of the NCA as contemplated in the Petition and is therefore a "Community Facility" for purposes of the Petition and the Declaration; and

**WHEREAS**, the City has heretofore entered into a Cooperative Agreement, dated June 4, 2020 (the "**2020 OWDA Cooperative Agreement**") with the OWDA to secure a loan in the



maximum principal amount of \$15,000,000 (the “**2020 OWDA Loan**”) for the purpose of providing monies to pay the costs of the 2020 OWDA Project and that 2020 OWDA Cooperative Agreement provides that the 2020 OWDA Loan shall be repaid from the Community Development Charge and other sources identified in the 2020 OWDA Cooperative Agreement; and

**WHEREAS**, the Parties have heretofore determined that improving the utility infrastructure serving the real property described in the Declaration by furnishing all labor, materials and equipment for the construction of (i) 2,350 linear feet of 24” sanitary sewer for the Worthington Road Sanitary Relief Sewer and (ii) 5,600 linear feet of 16” water main south of the intersection of SR 161 and Beech Road for the Ganton Parkway water main extension to provide service to the southeastern portion of the New Albany Business Park (collectively, the “**2021 OWDA Project**”) would benefit and be supportive of the development of the NCA as contemplated in the Petition and is therefore a “Community Facility” for purposes of the Petition and the Declaration; and

**WHEREAS**, the City has heretofore entered into a Cooperative Agreement, dated September 10, 2021 (the “**2021 OWDA Cooperative Agreement**”) with the OWDA to secure a loan in the maximum principal amount of \$3,325,210 (the “**2021 OWDA Loan**” and collectively with the 2018 OWDA Loan, the 2019 OWDA Loan and the 2020 OWDA Loan, the “**OWDA Loans**”) for the purpose of providing monies to pay the costs of the 2021 OWDA Project and that 2021 OWDA Cooperative Agreement provides that the 2021 OWDA Loan shall be repaid from the Community Development Charge and other sources identified in the 2021 OWDA Cooperative Agreement; and

**WHEREAS**, the Petition provides that the property included in the NCA’s District is developable, taking into account the existing New Albany community, so that, taken together, they will be a community characterized by well balanced and diversified land use patterns, and the

Parties have heretofore determined that continued growth and development of the City, including particularly, but not limited to, the “Village Center” area, is critical to support the development of the NCA and its new community as contemplated in the Petition; and

**WHEREAS**, the Parties have determined that it will also be necessary to have monies available to pay the costs of Future Projects which will facilitate that growth and development throughout the City; and

**WHEREAS**, the Parties have determined to work cooperatively and in the manner described in this Agreement to provide for the financing and construction of the OWDA Projects and the Future Projects; and

**WHEREAS**, to secure or pay the OWDA Loans and any Future Project Financings, to provide for any Future Project Payments and to reimburse any Future Project Advances, the City, acting pursuant to Ordinance No. \_\_\_\_\_ passed by its City Council on \_\_\_\_\_, 2024, has authorized the execution of this Agreement; and

**WHEREAS**, to secure the OWDA Loans and any Future Project Financings, to provide for any Future Project Payments and to reimburse any Future Project Advances, the NCA, acting pursuant to Resolution No. 2023-2 adopted by its Board of Trustees on October 27, 2023, has authorized the execution of this Agreement; and

**NOW, THEREFORE**, in consideration of the premises and the mutual representations and agreements in this Agreement, the Parties agree as follows:

**(END OF RECITALS)**

## ARTICLE I

### DEFINITIONS

**Section 1.1 Use of Defined Terms.** In addition to the words and terms defined elsewhere in this Agreement or by reference to another document, the words and terms set forth in Section 1.2 shall have the meanings set forth in Section 1.2 unless the context or use clearly indicates another meaning or intent.

**Section 1.2 Definitions.** As used herein:

***“Administrative Expenses”*** means, collectively, any expenses (including but not limited to audit, financial and legal) reasonably incurred by the (a) NCA in performing its functions and (b) City in connection with any OWDA Project or any Future Project.

***“Agreement”*** means this Cooperative Agreement dated as of \_\_\_\_\_, 2024/5?.

***“Annual Report”*** means the written report prepared annually by the City and the NCA pursuant to Section 5.1 (a form of which is attached hereto as **EXHIBIT B** and incorporated herein by reference).

***“City”*** means the City of New Albany, Ohio.

***“City Council”*** means the City Council of the City.

***“Community Facilities”*** shall have the meaning set forth in Section 349.01 of the Ohio Revised Code.

***“Debt Service Requirements”*** means with respect to each of the OWDA Loans and any Future Project Financing, the amount of principal, interest and redemption premium (if any) payable on such obligation (depending on the context, either annually or in the aggregate for such period as each obligation is outstanding).

***“Declaration”*** shall have the meaning set forth in the Recitals.

***“Future Project Advances”*** means, collectively, any monies advanced by the City which were used for the purpose of paying the costs of any Future Project and which were not reimbursed with proceeds from a Future Project Financing.

***“Future Project Financings”*** means, collectively, any securities issued or any other borrowings incurred by the City for the purpose of paying the costs of any Future Project.

***“Future Project Payments”*** means, collectively, any monies remitted by the NCA to the City which are intended to be used by the City for the purpose of paying the then current costs of any Future Project.

***“Future Project”*** means, collectively, any projects hereafter identified in accordance with Section 4.4.

***“NCA”*** means the New Albany East Community Authority.

***“NCA Fund”*** means the fund or account maintained by the NCA and (a) into which will be deposited all monies received by the NCA from the determination, levy and collection of the Community Development Charge less any amounts withheld for refund to a Chargepayer, and (b) from which will be remitted all monies required to (i) pay Administrative Expenses, (ii) pay the Debt Service Requirements (including any Prepayments) on the OWDA Loans and any Future Project Financings, (iii) pay Future Project Payments and (iv) reimburse Future Project advances.

***“NCA Fund Minimum Balance”*** means on any computation date, an amount equal to (a) the then current balance in the NCA Fund, minus (b) the amount of Administrative Expenses estimated to be incurred in the then next succeeding twelve (12) calendar months, minus (c) one hundred twenty-five percent (125%) of the Debt Service Requirements (including any Prepayments) on the OWDA Loans and any Future Project Financings which will be payable in the then next succeeding twelve (12) calendar months and plus (d) a reasonable projection of

Community Development Charges to be collected and deposited in the NCA Fund during the then next succeeding twelve (12) calendar months.

**“Notice Address”** means:

as to the City:                      City of New Albany, Ohio  
   99 West Main Street  
   New Albany, Ohio 43054  
   Attention: City Manager

as to the NCA:                        New Albany East Community Authority  
   8000 Walton Parkway, Suite 200  
   New Albany, Ohio 43054  
   Attention: Treasurer

**“OWDA”** means the Ohio Water Development Authority.

**“OWDA Cooperative Agreements”** means, collectively, the (a) 2018 OWDA Cooperative Agreement, (b) 2019 OWDA Cooperative Agreement, (c) 2020 OWDA Cooperative Agreement and (d) 2021 OWDA Cooperative Agreement, as each is more fully described in the Recitals.

**“OWDA Loans”** means, collectively, the (a) 2018 OWDA Loan, (b) 2019 OWDA Loan, (c) 2020 OWDA Loan and (d) 2021 OWDA Loan, as each is more fully described in the Recitals.

**“OWDA Projects”** means, collectively, the (a) 2018 OWDA Project, (b) 2019 OWDA Project, (c) 2020 OWDA Project and (d) 2021 OWDA Project, as each is more fully described in the Recitals.

**“Parties”** or **“Party”** means, as the context requires, the City and the NCA collectively or individually.

**“Petition”** shall have the meaning set forth in the Recitals.

**“Prepayments”** means the prepayment of all or a portion of the Debt Service Requirements on any OWDA Loan or any Future Project Financing, all as is more fully described in Sections 4.3 and 4.4.

***“Reported Debt Service Requirements Amount”*** means the amount reported in each Annual Report which shall be equal to the sum of (a) the Debt Service Requirements (including any Prepayments) on the OWDA Loans and any Future Project Financings which will be due and payable in the then current calendar year and the then next succeeding calendar year.

***“Reported Future Project Advance Amount”*** means the amount reported in each Annual Report as the amount reasonably determined by the City to be an appropriate amount to reimburse the City for all or a portion of the aggregate amount of all unreimbursed Future Project Advances in the then current calendar year and the then next succeeding calendar year. The City’s determination of this amount will take into account the following which will be payable in then then current calendar year and the then next succeeding calendar year: (a) estimated amount of Community Development Charge to be collected by the NCA, (b) the amount of Administrative Expenses, (c) the Reported Debt Service Requirements Amount, (d) the then current balance of all unreimbursed Future Project Advances and (e) the requested Future Project Payments.

***“Reported Future Project Payments”*** means the amount reported in each Annual Report as the amount requested by the City pursuant to Section 4.4(b) to be remitted by the NCA to the City to pay the cost of a Future Project.

***“State”*** means the State of Ohio.

**Section 1.3 Interpretation.** Any reference in this Agreement to the Parties or to any officers of the Parties includes those entities or officials succeeding to their functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State, or to a section, provision or chapter of the Ohio Revised Code shall include such section, provision or chapter as modified, revised, supplemented or superseded from time to time; *provided* that no amendment,

modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph if it constitutes in any way an impairment of the rights or obligations of the Parties under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “*hereof*”, “*hereby*”, “*herein*”, “*hereto*”, “*hereunder*” and similar terms refer to this Agreement; and the term “*hereafter*” means after, and the term “*heretofore*” means before, the date of this Agreement. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise. References to articles, sections, subsections, clauses, exhibits or appendices in this Agreement, unless otherwise indicated, are references to articles, sections, subsections, clauses, exhibits or appendices of this Agreement.

**Section 1.4 Captions and Headings.** The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope of the intent of any article, section, subsection, clause, exhibit or appendix of this Agreement.

**(END OF ARTICLE I)**

## ARTICLE II

### **GENERAL AGREEMENT AND TERM**

**Section 2.1 General Agreement Among Parties.** For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement and the intended cooperative arrangements among the Parties, the Parties have determined to cooperate with each other in the financing and construction of the OWDA Projects and any Future Projects, all in accordance with this Agreement. This Agreement is intended as and shall be an agreement among the Parties to cooperate in the financing and construction of the OWDA Projects and any Future Projects, and the agreements contained herein are intended to and shall be construed as agreements to further effectuate cooperative action and safeguard the respective interests of the Parties hereto.

**Section 2.2 Term of Agreement.** This Agreement shall become effective as of the Effective Date and will continue until the OWDA Projects and any Future Projects shall have been completed and the City has been fully reimbursed by the NCA for (a) the aggregate Debt Service Requirements on the OWDA Loans and on any Future Project Financings and (b) the aggregate amount of any Future Project Advances.

**(END OF ARTICLE II)**



## **ARTICLE III**

### **REPRESENTATIONS AND COVENANTS OF THE PARTIES**

**Section 3.1 Representations and Covenants of the City.** The City represents and covenants that:

(a) It is a municipal corporation duly organized and validly existing under the Constitution and applicable laws of the State and its Charter.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the City which would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of the City, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to the City, including its Charter, and do not and will not conflict with or result in a default under any agreement or instrument to which the City is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by the City and all steps necessary to be taken by the City have been taken to constitute this Agreement, and the covenants and agreements of the City contemplated herein are valid and binding obligations of the City, enforceable in accordance with their terms.

(e) There is no litigation pending or to its knowledge threatened against or by the City wherein an unfavorable ruling or decision would materially adversely affect the City's ability, to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) The City ordinance approving this Agreement, has been duly passed, is in full force and effect and is not subject to repeal by referendum.

**Section 3.2 Representations and Covenants of the NCA.** The NCA represents and covenants that:

(a) It is a new community authority duly organized and validly existing under the applicable laws of the State.

(b) It is not in violation of or in conflict with any provisions of the laws of the State or of the United States of America applicable to the NCA which would impair its ability to carry out its obligations contained in this Agreement.

(c) It is legally empowered to execute, deliver and perform this Agreement and to enter into and carry out the transactions contemplated by this Agreement. To the knowledge of the NCA, that execution, delivery and performance do not and will not violate or conflict with any provision of law applicable to the NCA, and do not and will not conflict with or result in a default under any agreement or instrument to which the NCA is a party or by which it is bound.

(d) This Agreement to which it is a Party has, by proper action, been duly authorized, executed and delivered by the NCA and all steps necessary to be taken by the NCA have been taken to constitute this Agreement, and the covenants and agreements of the NCA contemplated herein are valid and binding obligations of the NCA, enforceable in accordance with their terms.

(e) There is no litigation pending or to its knowledge threatened against or by the NCA wherein an unfavorable ruling or decision would materially adversely affect the NCA's ability, to carry out its obligations under this Agreement.

(f) It will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement by any successor public body.

(g) The NCA resolution approving this Agreement has been duly adopted, is in full force and effect, and is not subject to repeal by referendum.

**(END OF ARTICLE III)**

## ARTICLE IV

### **CONSTRUCTION AND FINANCING OF THE OWDA PROJECTS; FUTURE PROJECTS**

**Section 4.1 OWDA Projects and Related OWDA Loans.** In cooperation with the NCA, the City has heretofore entered into contracts to provide for the construction of the OWDA Projects. The NCA acknowledges and agrees that the OWDA Projects are “Community Facilities” for purposes of the Petition and Declaration. To facilitate the construction of those OWDA Projects, the City has executed the OWDA Cooperative Agreements and incurred the OWDA Loans to provide sufficient monies to pay the costs of those OWDA Projects. The Debt Service Requirements for the various OWDA Loans are set forth in more detail on **EXHIBITS A-1, A-2, A-3 and A-4** (each of which is attached hereto and incorporated herein by reference).

**Section 4.2 Prepayment of OWDA Loans.** The Parties acknowledge that pursuant to the terms of the OWDA Loans, the City may prepay the principal of and/or interest on the OWDA Loans, and the Parties agree that to the extent there is a balance in the NCA Fund in excess of the NCA Fund Minimum Balance, the City may request that the NCA remit such excess (or any portion thereof) in accordance with Section 5.3 for the purpose of prepaying the Debt Service Requirements (either in whole or in part) on OWDA Loans. The Parties further agree that any such Prepayments would be mutually and financially advantageous to each Party. If the City determines to prepay any of the OWDA Loans (either in whole or in part), and to the extent OWDA provides the City with a revised schedule of Debt Service Requirements for the OWDA Loans reflecting such Prepayments, the City will provide to the NCA a replacement of any of **EXHIBITS A-1, A-2, A-3 and/or A-4**, as appropriate, which shall reflect the revised Debt Service Requirements for the OWDA Loans.

**Section 4.3 Refinancing of the OWDA Loans** . The Parties agree that the respective OWDA Loans may be refinanced or restructured from time to time; *provided* that the City may only proceed therewith if such refinancing or restructuring would in the City's reasonable judgment result in a net present value savings on the Debt Service Requirements of a respective OWDA Loan. If the City determines to effect a refinancing for any of the OWDA Loans, the City will notify the NCA of its determination to proceed with such refinancing, and promptly following the completion of such refinancing, shall provide to the NCA a replacement of any of **EXHIBITS A-1, A-2, A-3 and/or A-4**, as appropriate, which shall reflect the revised Debt Service Requirements for the OWDA Loans.

**Section 4.4 Future Projects**.

(a) **General**. The Parties have determined and that the continued growth and development of the City, including particularly, but not limited to, the "Village Center" area, is critical to support the development of the NCA and its new community as contemplated in the Petition. The Parties have further determined that it will be necessary to have monies available to pay the costs of projects hereafter undertaken which will facilitate that growth and development of the City as well as the NCA (any such project being referred to herein as a "***Future Project***").

(b) **Identification of Future Projects**. The City may from time to time during the term of this Agreement identify any such Future Project as supporting the continued growth and development of the City and being critical to support the development of the NCA. Promptly following such identification, the City will provide written notice thereof to the NCA. Such notice will include (i) a description of the Future Project, (ii) the estimated cost of the Future Project, (iii) the portion(s) of the costs of such Future Project which will be paid from a Future Project Payment,

a Future Project Advance and/or a Future Project Financing and (iv) an estimate of the timing for the payment of the costs of that Future Project.

In the event that such notice provides that all or a portion of the costs of such Future Project will be paid from a Future Project Payment, which payment will be remitted in accordance with Section 5.3, the NCA will promptly determine the then current balance in the NCA Fund and notify the City in writing of the then current balance in the NCA Fund. The City agrees that if the payment of the Future Project Payment out of the NCA Fund would result in the then current balance in the NCA Fund to be less than the NCA Fund Minimum Balance, the City shall reduce the requested amount of the Future Project Payment in order that the balance in the NCA Fund following the payment of the Future Project Payment will be at least equal to the NCA Fund Minimum Balance.

(c) Provision of Information Relating to the Cost of a Future Project. Promptly following the completion of any Future Project, the City shall provide written notice to the NCA which identifies (i) the actual cost of the Future Project, (ii) the amount of any Future Project Payment which was earlier advanced by the NCA to the City to pay all or a portion of the costs of that Future Project, (iii) the amount of any Future Project Payment which was earlier advanced by the NCA to the City and which was not required to pay the costs of that Future Project, and which unspent portion of that Future Project Payment (A) is being returned to the NCA for deposit into the NCA Fund or (B) is being retained by the City to pay Administrative Expenses or the cost of another Future Project, (iv) the amount of any Future Project Advance which was used to pay all or a portion of the costs of that Future Project and (v) the Debt Service Requirements on any Future Project Financing the proceeds of which were used to pay all or a portion of the costs of that Future Project, which Debt Service Requirements will be set forth in a supplement to **EXHIBIT A**.

(d) Prepayment and Refinancing of Future Project Financings. The Parties agree that to the extent the City incurs a Future Project Financing, such Future Project Financing may be prepaid or refinanced in the same manner as the OWDA Loans in accordance with the provisions set forth in Sections 4.2 and 4.3.

**(END OF ARTICLE IV)**

## ARTICLE V

### **ACCOUNTING FOR, LEVY AND COLLECTION, AND USE OF COMMUNITY DEVELOPMENT CHARGE**

**Section 5.1 Accounting for and Periodic Reporting Regarding NCA Fund.** The NCA shall keep current records regarding the receipts and disbursements of the Community Development Charge. No later than July 1 of each year, the City and the NCA shall work cooperatively to prepare the Annual Report. Such Annual Report shall be delivered to the NCA's Board of Trustees for the purpose of informing the Board as to the projected receipts and disbursements of the Community Development Charge for the then current and next succeeding calendar years.

**Section 5.2 Annual Determination, Levy and Collection of Community Development Charge.** The NCA agrees that for so long as there remains outstanding and payable any portion of the OWDA Loans or any Future Project Financing, or there remains any unreimbursed Future Project Advance, the NCA shall act timely in each calendar year to determine, levy and collect the Community Development Charge at the rate of 9.75 mills for each \$1,000 of assessed valuation. On and after the date on which the Parties reasonably determine that there no longer remains outstanding and payable any portion of the OWDA Loans, any Future Project Financing, or any unreimbursed Future Project Advance, the City and the NCA shall work cooperatively to determine the rate at which the Community Development Charge shall be determined, levied and collected in order to provide sufficient monies to provide for (a) the payment of Administrative Expenses estimated to be incurred by the NCA in the then next succeeding calendar year, (b) the Reported Debt Service Requirements Amount, (c) the Reported Future Project Advance Amount, (d) the Reported Future Project Payments and (e) such additional amount as may be necessary to account for anticipated delinquencies in an amount consistent with



prior years' collections; *provided, however*, the NCA shall not be required to determine, levy and collect the Community Development Charge at a rate which exceeds the maximum Charge authorized by the Declaration (*i.e.*, 9.75 mills for each \$1,000 of assessed valuation).

**Section 5.3 Periodic Remission and Use of Community Development Charge.** The Parties agree that from time to time, the City shall submit written requests to the NCA for the (a) payment of Debt Service Requirements (including any Prepayments) on the OWDA Loans, (b) payment of Debt Service Requirements (including any Prepayments) on any Future Project Financings, (c) reimbursement of any Future Project Advances or (d) for a payment of any Future Project Payment for the purpose of paying the then current costs of any Future Project. The NCA agrees that it will remit any requested payment to the City within five (5) business days of the date on which the NCA receives the written request from the City. The NCA also agrees that if requested by the City, the NCA will remit any such payment directly to a third party (*i.e.*, OWDA or a bond trustee) on behalf of the City. The City agrees that any Community Development Charge that it receives from the NCA shall be used solely for the purpose of paying the Debt Service Requirements (including any Prepayments) on the OWDA Loans and any Future Project Financings, reimbursing any Future Project Advances or used as a Future Project Payment for the purpose of paying the then current costs of any Future Project. The City further agrees that promptly following the date on which all of the OWDA Loans, any Future Project Financings and any Future Project Advances shall have been paid in full or provided for, and following an accounting therefor, the City shall remit to the NCA any balance of Community Development Charges which remains in its custody and shall sign any instrument as may be reasonably requested by the NCA to release the pledge and assignment of the Community Development Charge to the City.

**Section 5.4 Pledge of Community Development Charge.** To the extent permitted by law, and to secure the payment of the Debt Service Requirements (including any Prepayments) on the OWDA Loans and any Future Project Financing, and to reimburse all Future Project Advances, the NCA hereby irrevocably pledges and assigns to the City all of its respective right, title and interest to the Community Development Charge deposited in the NCA Fund and grants to the City a security interest therein. Upon receipt of the City's prior written consent (which will not be unreasonably withheld), the NCA may pledge the Community Development Charge deposited in the NCA Fund to other obligations on a junior and subordinated basis. Such limitation on the NCA's ability to pledge and assign the Community Development Charge deposited in the NCA Fund shall terminate once payment of the OWDA Loans and any Future Project Financings, together with the reimbursement of all Future Project Advances, has been made in full or provided for. The Parties agree that nothing in this Agreement shall be interpreted to characterize the NCA's obligations hereunder as a general obligation debt or bonded indebtedness, or a pledge of the full faith and credit of the NCA.

**(END OF ARTICLE V)**

## ARTICLE VI

### EVENTS OF DEFAULT

**Section 6.1 Events of Default.** Any one or more of the following constitutes an “*Event of Default*” under this Agreement:

(a) The City or the NCA fails to timely perform or observe any material obligation as and when due under this Agreement, *provided* that if a Force Majeure (as such term is defined below) event causes the failure, the City or the NCA may receive an additional period of time as is reasonably necessary to perform or observe the material obligation in light of the event if it notifies the other of the potential event and the extent of the delay promptly after becoming aware of the event;

(b) The City or the NCA makes a representation or warranty in this Agreement that is materially false or misleading at the time it is made;

(c) The City or the NCA files a petition for the appointment of a receiver or a trustee with respect to it or any of its property;

(d) The City or the NCA makes a general assignment for the benefit of creditors;

(e) A court enters an order for relief pursuant to any Chapter of Title 11 of the U.S. Code, as the same may be amended from time to time, with the City or the NCA as debtor; or

(f) The City or the NCA files an insolvency proceeding with respect to itself or any proceeding with respect to itself for compromise, adjustment or other relief under the laws of any country or state relating to the relief of debtors.

As used in this Section, “*Force Majeure*” means any event that is not within the control of the City, the NCA or their employees, contractors, subcontractors and material suppliers, including the following: acts of God; acts of public enemies; orders or restraints of any kind of the

government of the United States or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; nuclear accidents; fires; restraint of government and people; explosions; pandemics or health related emergencies; and partial or entire failure of utilities.

**Section 6.2 General Right to Cure.** In the event of any Event of Default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, the defaulting party will, upon written notice from the other, proceed, as soon as reasonably possible, to cure or remedy such Event of Default or breach, and, in any event, within 30 days after receipt of such notice. In the event such Event of Default or breach is of such nature that it cannot be cured or remedied within said 30-day period, then in such event the defaulting party will upon written notice from the other commence its actions to cure or remedy said breach within said 30-day period, and proceed diligently thereafter to cure or remedy said breach.

**Section 6.3 Remedies.** If a defaulting party fails to cure any Event of Default pursuant to Section 6.2, the other party may institute such proceedings against the defaulting party as may be necessary or desirable in its opinion to cure and remedy such default or breach. Such remedies include, but are not limited to: (i) instituting proceedings to compel specific performance by the defaulting party and (ii) any other rights and remedies available at law, in equity or otherwise to collect all amounts then becoming due or to enforce the performance of any obligation under this Agreement. The obligations of either Party may be enforced to the extent permitted by law by mandamus or any suit or proceeding in law or equity.

**Section 6.4 No Waiver.** No right or remedy herein conferred upon or reserved to any Party is intended to be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or

hereafter legally existing upon the occurrence of any event of default hereunder. The failure of any Party to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof. Every right and remedy given by this Agreement to the Parties hereto may be exercised from time to time and as often as may be deemed expedient by the parties hereto, as the case may be.

**(END OF ARTICLE VI)**

## ARTICLE VII

### MISCELLANEOUS

**Section 7.1 Assignment.** This Agreement may not be assigned without the prior written consent of all non-assigning Parties.

**Section 7.2 Binding Effect.** Without limiting the availability of enforcement by mandamus of other obligations of the City or the NCA, as the case may be, under this Agreement, all of the obligations of the City and the NCA under this Agreement are established as duties specifically enjoined by law and resulting from an office, trust or station upon the City or the NCA, as the case may be, within the meaning of Ohio Revised Code Section 2731.01, and are enforceable by mandamus. The provisions of this Agreement shall be binding upon the successors or assigns of the Parties.

**Section 7.3 Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

**Section 7.4 Day for Performance.** Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or legal holiday, then such time for performance shall be automatically extended to the next business day.

**Section 7.5 Entire Agreement.** This Agreement constitutes the entire Agreement between the Parties on the subject matter hereof and supersedes all prior negotiations, agreements and understandings, both written and oral, between the Parties with respect to such subject matter. This Agreement may not be amended, waived or discharged except in an instrument in writing executed by the Parties.

**Section 7.6 Executed Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute but one and the same instrument. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

**Section 7.7 Extent of Covenants; No Personal Liability.** All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or the NCA other than in his or her official capacity, and neither the members of the legislative bodies of the City or the NCA nor any official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City and the NCA contained in this Agreement

**Section 7.8 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its principles of conflicts of laws. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the NCA, its employees and agents, arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.

**Section 7.9 Limit on Liability.** Notwithstanding any clause or provision of this Agreement to the contrary, in no event shall City or the NCA be liable to each other for punitive, special, consequential, or indirect damages of any type and regardless of whether such damages are claimed under contract, tort (including negligence and strict liability) or any other theory of law.

**Section 7.10 Notices.** Except as otherwise specifically set forth in this Agreement, all notices, demands, requests, consents or approvals given, required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given if actually received or if hand-delivered or sent by recognized, overnight delivery service or by certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address set forth in this Agreement or any addendum to or counterpart of this Agreement, or to such other address as the recipient shall have previously notified the sender of in writing, and shall be deemed received upon actual receipt, unless sent by certified mail, in which event such notice shall be deemed to have been received when the return receipt is signed or refused.

**Section 7.11 Recitals.** The Parties acknowledge and agree that the facts and circumstances as described in the Recitals hereto are an integral part of this Agreement and as such are incorporated herein by reference.

**Section 7.12 Severability.** If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**Section 7.13 Survival of Representations and Warranties.** All representations and warranties of the Parties in this Agreement shall survive the execution and delivery of this Agreement.



**Section 7.14 Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**(END OF ARTICLE VI)**

**IN WITNESS WHEREOF**, this Agreement has been duly executed and delivered for, in the name of and on behalf of each of the Parties by their duly authorized officers, all as of the date hereinbefore written.

**CITY OF NEW ALBANY, OHIO**

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

Printed: Joseph F. Stefanov

Title: City Manager

**Approved as to Form and Correctness:**

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

Printed: Benjamin S. Albrecht

Title: Director of Law

**FISCAL OFFICER'S CERTIFICATE**

The undersigned, Director of Finance of the City under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the City under the foregoing Agreement during Fiscal Year 2024 have been appropriated lawfully for that purpose, and are in the Treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: \_\_\_\_\_, 2024

\_\_\_\_\_  
Director of Finance  
City of New Albany, Ohio

**IN WITNESS WHEREOF**, this Agreement has been duly executed and delivered for, in the name of and on behalf of each of the Parties by their duly authorized officers, all as of the date hereinbefore written.

**NEW ALBANY EAST COMMUNITY AUTHORITY**

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

Printed: \_\_\_\_\_

Title: Chair, Board of Trustees

**FISCAL OFFICER'S CERTIFICATE**

The undersigned, Treasurer of the NCA under the foregoing Agreement, certifies hereby that the moneys required to meet the obligations of the NCA under the foregoing Agreement during Fiscal Year 2024 have been appropriated lawfully for that purpose, and are in the Treasury of the NCA or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: \_\_\_\_\_, 2024

\_\_\_\_\_  
Treasurer  
New Albany East Community Authority

**EXHIBIT A-1**

**2018 OWDA LOAN – DEBT SERVICE REQUIREMENTS**

See attached

**EXHIBIT A-2**

**2019 OWDA LOAN – DEBT SERVICE REQUIREMENTS**

See attached

**EXHIBIT A-3**

**2020 OWDA LOAN – DEBT SERVICE REQUIREMENTS**

See attached

**EXHIBIT A-4**

**2021 OWDA LOAN – DEBT SERVICE REQUIREMENTS**

See attached.

**EXHIBIT B**

**ANNUAL REPORT TO THE NCA BOARD OF TRUSTEES**

\_\_\_\_\_, 20\_\_

Board of Trustees  
New Albany East Community Authority  
8000 Walton Parkway  
New Albany, Ohio 43054

Re: NCA Fund Annual Report

Dear Members of the Board:

In accordance with the Cooperative Agreement dated \_\_\_\_\_, 2024 (the "*Agreement*") by and between the City of New Albany, Ohio and the New Albany East Community Authority, the undersigned have reviewed historical and projected receipts and disbursements of the Community Development Charge, and have determined the following regarding the current balance and projected deposits to and disbursements out of the NCA Fund for the current and next succeeding calendar years:

	<u>Current Year</u>	<u>Next Year</u>
Beginning Balance in the NCA Fund	\$ _____	\$ _____
Plus Community Development Charge Receipts	\$ _____	\$ _____
Less NCA Administrative Expenses	\$ _____	\$ _____
Less Reported Debt Service Requirements	\$ _____	\$ _____
Less Reported Future Project Advance Amounts	\$ _____	\$ _____
Less Reported Future Project Payments	\$ _____	\$ _____
Ending Balance in the NCA Fund	\$ _____	\$ _____
Less NCA Fund Minimum Balance	\$ _____	\$ _____
Available NCA Fund Balance	\$ _____	\$ _____

Please contact us with any questions or concerns.

\_\_\_\_\_  
Director of Finance  
City of New Albany, Ohio

\_\_\_\_\_  
Treasurer  
New Albany East Community Authority





**RESOLUTION R-47-2024**

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A FIRST AMENDED AND RESTATED COMMUNITY REINVESTMENT AREA AGREEMENT WITH COI NEW ALBANY 525, LLC**

**WHEREAS**, COI New Albany 525, LLC, an Ohio limited liability company (the "Company") previously acquired land in the City of New Albany (the "Project Site") for development of facilities (the "Project"), and in support of the development of the Project the City and the Company entered into a Community Reinvestment Area Agreement dated November 23, 2021 (the "Original CRA Agreement") pursuant to City Resolution No. R-56-2021 adopted November 16, 2021; and

**WHEREAS**, Council previously created the current Oak Grove II Community Reinvestment Area by its Resolution No. R-17-09 adopted March 3, 2009, as supplemented by its Resolutions No. R-41-10 adopted July 6, 2010, No. R-72-10 adopted November 16, 2010, No. R-53-12 adopted October 12, 2012, No. R-26-13 adopted July 16, 2013, No. R-72-14 adopted September 9, 2014, No. R-49-2015 adopted November 17, 2015, No. R-45-16 adopted November 1, 2016, No. R-02-17 adopted February 7, 2017, No. R-17-18 adopted July 17, 2018, No. R-41-18 adopted November 6, 2018, No. R-05-2019 adopted February 19, 2019, No. R-37-2019 adopted August 6, 2019, No. R-15-2021 adopted April 6, 2021, No. R-46-2021 adopted September 21, 2021, No. R-09-2022 adopted February 1, 2022, No. R-18-2022 adopted May 3, 2022, No. R-38-2022 adopted November 15, 2022, No. R-21-2023 adopted April 18, 2023, and No. R-46-2023 adopted November 7, 2023; and

**WHEREAS**, the Company has requested that the Original CRA Agreement be amended and restated by the First Amended and Restated CRA Agreement referred to in Section 1 of this Resolution; and

**WHEREAS**, the City's Housing Officer, duly designated under Ohio Revised Code Section 3735.65, has reviewed the Company's request and has recommended the same to City Council on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities in the Area and improve the economic climate of the City; and

**WHEREAS**, the City, having the appropriate legal authority, desires to provide certain property tax incentives to encourage the development the Project on the Project Site; and

**WHEREAS**, the Project Site is located in the Licking County Joint Vocational School District (C-TEC) and the Johnstown-Monroe Local School District, and the Boards of Education of both those School Districts have waived their rights to both receive notice under Section 5709.83 of the Revised Code and approve the Amended and Restated CRA Agreement.

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

**Section 1.** First Amended and Restated Community Reinvestment Area Agreement. The First Amended and Restated Community Reinvestment Area Agreement by and between the City and the Company, in the form presently on file with the Clerk of the Council, is hereby approved and authorized with any changes therein and amendments thereto not inconsistent with this Resolution and not substantially adverse to this City and which shall be approved by the City Manager. The City Manager, for and in the name of this City, with the advice of the Director of Law, is hereby authorized to execute that First Amended and Restated Community Reinvestment Area Agreement and approve the character of any changes and any amendments thereto as consistent with this Resolution and not substantially adverse to the City, as evidenced conclusively by his execution of that Community Reinvestment Area Agreement.

**Section 2.** Further Authorizations. Council further hereby authorizes and directs the City Manager, the Director of Law, the Director of Finance, the Community Development Director, the Clerk of Council, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Resolution and the transactions referenced or contemplated in this Resolution and the First Amended and Restated Community Reinvestment Area Agreement and approved in this Resolution.

**Section 3.** Compliance with the Law. Council finds and determines that all formal actions of Council and any of its committees concerning and relating to the adoption of this resolution were taken in an open meeting of Council and any of its committees, and that all deliberations of this Council an any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

**Section 4.** Effective Date. This resolution is declared to be in full force and effect from and after the earliest period allowed by law.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Attest:**

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

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

**Approved as to form:**

\_\_\_\_\_  
Benjamin S. Albrecht  
Law Director

**Legislation dates:**

Prepared: 10/04/2024

Introduced: 10/15/2024 – *tabled to 11/05/2024*

Revised:

Adopted:

Effective:



**RESOLUTION R-53-2024**

**A RESOLUTION TO REAPPOINT JOSEPH STEFANOV TO THE POSITION OF CITY MANAGER EFFECTIVE JANUARY 1, 2025 AND AUTHORIZE THE EXECUTION OF AN EMPLOYMENT AGREEMENT**

**WHEREAS**, Joseph Stefanov has successfully served the City of New Albany in the capacity of village administrator and city manager for nearly 25 years; and

**WHEREAS**, during his tenure, Joseph Stefanov has been a trusted advisor to New Albany City Council and has served the community with the utmost dedication and reliability; and

**WHEREAS**, Joseph Stefanov has assembled a team of accomplished professionals who have consistently provided outstanding service to the community; and

**WHEREAS**, during his tenure, New Albany has experienced tremendous economic growth, enabling council to expand public services, build new community facilities, and continuously improve public infrastructure; and

**WHEREAS**, through his leadership and financial stewardship, the city has achieved an enviable financial position that includes multiple AAA bond ratings; and

**WHEREAS**, after approximately 34 years of public service, Joseph Stefanov has expressed his desire to retire on December 31, 2024; and

**WHEREAS**, Joseph Stefanov has expressed his desire to be rehired to the position of city manager, effective January 1, 2025, for a period of two (2) years, to provide adequate time for council to execute an effective transition strategy and conduct a thorough search and selection process for the next city manager.

**NOW, THEREFORE**, be it resolved by the council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that;

**Section 1.** Joseph Stefanov is hereby reappointed to the position of city manager effective January 1, 2025, following his retirement from the same position effective December 31, 2024.

**Section 2.** Council hereby authorizes the mayor, on behalf of council, to execute an employment agreement with Joseph Stefanov, a copy of which is attached hereto as Exhibit A.

**Section 4.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of 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 6.07(A) of the New Albany Charter, this resolution shall take effect upon adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Attest:**

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

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

**Approved as to form:**

\_\_\_\_\_  
Benjamin S. Albrecht  
Law Director

<b>Legislation dates:</b>	
Prepared:	08/06/2024
Introduced:	12/03/2024
Revised:	
Adopted:	
Effective:	

**Exhibit A – R-53-2024**

**EMPLOYMENT AGREEMENT**

The City of New Albany, an Ohio Municipal Corporation, (hereinafter called "City"), hereby agrees to employ Joseph F. Stefanov as City Manager (hereinafter called the "Manager") to perform the functions and duties of the City Manager as set forth in the City Charter, the New Albany Codified Ordinances and such other statutory and legally permissible duties and functions as Council shall direct or assign. The Manager agrees to accept such employment under the terms and conditions hereinafter set forth.

**SECTION 1. SALARY AND EVALUATION**

A. Council shall determine the Manager's base rate of compensation annually for calendar years 2025 and 2026, in addition to any cost of living increase given to non-union City employees during such period. Such annual base rate of compensation shall be determined on or before December 31. For calendar years 2025 and 2026, the Manager shall also be eligible for a merit-based performance bonus as Council may determine. Any merit-based performance bonus shall be a specified percentage of the Manager's annual base rate of compensation. Any such merit-based performance adjustment shall be independent of the base rate of compensation and shall be based on the Manager's successfully addressing goals established by Council. The Manager's compensation shall be payable in installments at the same time as other City employees are paid.

**SECTION 2. AUTOMOBILE ALLOWANCE**

The Manager shall be paid a monthly automobile allowance of six hundred dollars (\$600.00) per

**Exhibit A – R-53-2024**

month in lieu of reimbursement for travel expenses not associated with professional conferences and training.

**SECTION 3. HOLIDAYS, VACATION, SICK LEAVE AND RETIREMENT**

The Manager shall accrue holidays, personal leave, sick leave and retirement benefits pursuant to Chapter 155 of the City's Codified Ordinances. Upon his rehire on January 1, 2025, and again on January 1, 2026, the Manager shall be credited with two hundred and twenty-four (224) hours of vacation leave for his use. The Manager may carry-over any unused vacation from 2025 to 2026. However, the Manager shall not be permitted to “cash-out” any accrued, but unused vacation leave upon his separation from employment consistent with this Agreement.

**SECTION 4. LIFE, HEALTH AND LIABILITY INSURANCE**

The Manager shall receive life and health insurance pursuant to Chapter 155 of the City's Codified Ordinances. Additionally, the City will provide public official's liability insurance for the Manager.

**SECTION 5. PROFESSIONAL DEVELOPMENT**

Subject to budgetary constraints and approval of curriculum, Council hereby agrees to pay the travel and subsistence expenses of the Manager for professional and official travel, meetings, and occasions adequate to continue the professional development of the Manager and to adequately pursue

**Exhibit A – R-53-2024**

necessary official and other functions for Council, including but not limited to the Annual Conference of the International City Managers Association, the Ohio Municipal League, and such other national, regional, state and local governmental groups and committees thereof which the Manager serves as a member.

**SECTION 6.            DUES AND SUBSCRIPTIONS**

Council agrees to pay the dues and subscriptions of the Manager necessary for continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for continued professional development and for the good of City.

**SECTION 7.            HOURS OF WORK**

A.     It is recognized the Manager must devote time outside normal office hours to City business, and to that end the Manager will be allowed to take compensatory time off as deemed appropriate during said normal office hours.

B.     The Manager shall not spend any time teaching, consulting, or other non-City related income producing activity without the express prior approval of Council.

**SECTION 8.            TERM OF AGREEMENT**

A.     The term of this Agreement shall be from January 1, 2025 through December 31, 2026. Notwithstanding any other provisions contained herein. The Manager agrees to remain in the exclusive employ of the City during the term of this Agreement. The Manager agrees not to become employed by

## **Exhibit A – R-53-2024**

any other employer during the term of this agreement, unless Council terminates the Manager during the term of this agreement as provided in Section 9; or, the Manager resigns after proper notice as provided in Section 8 (C); or unless this provision is modified by mutual agreement of Council and the Manager.

B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the absolute right of Council, in its sole and exclusive discretion, to terminate the services of the Manager at any time, subject only to the provisions set forth in Section 9, Paragraphs A and B, of this Agreement.

C. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Manager to resign at any time from this position with the City. The Manager shall give Council ninety (90) days written notice should the Manager voluntarily resign this position prior to the expiration of this Agreement or any extensions thereof.

### **SECTION 9. SEVERANCE PAYMENT**

A. In the event the Manager is terminated by Council prior to the expiration of this Agreement, and if at such time the Manager remains willing to perform the duties of the Manager, then Council agrees to pay the Manager a lump sum cash severance payment equivalent to the Manager's remaining salary payable through December 31, 2026 at the rate of pay at the time Council terminates Manager (the "Severance Payment"); provided, however, that if the Manager is terminated for willful failure or refusal to comply with the policies, rules, regulations, standards or direction established by Council, or if the Manager is convicted of an illegal act involving dishonesty, theft or misconduct, then Council shall have no obligation to make such Severance Payment.



**Exhibit A – R-53-2024**

B. In the event Council at any time during the term of this Agreement reduces the annual base rate of compensation or other financial benefits of the Manager in a percentage greater than an applicable across-the-board reduction for all non-union City employees, or in the event Council refuses, following written notice, to comply with any other provision benefiting the Manager, or the Manager resigns following a request by Council for such resignation, then, at the sole discretion of the Manager, the Manager may be deemed to be "terminated" on the effective date of Manager's resignation and the Manager shall be entitled to receive the Severance Payment set forth herein, based upon the Manager's salary prior to any such salary reduction

C. If the Manager voluntarily resigns during the effective dates of this Agreement, there shall be no Severance Payment.

D. During the effective dates of this Agreement, Council may hire and employ Manager's successor pursuant to employment terms different than contained herein, including greater compensation. During the period of dual employment with Manager and his successor, Manager shall retain his title as "City Manager." In the event Council hires and employs Manager's successor at a greater level of benefits during the life of this Agreement than Manager, such action by Council shall not be considered a termination of Manager pursuant to the terms of this Agreement, so long as Manager retains his role as City Manager and is not demoted. Similarly, Manager shall not be entitled to any increased benefit included in his successor's employment agreement, if any. If Council hires Manager's successor during the life of this Agreement, Manager is expected to assist in good faith with any transition.

**Exhibit A – R-53-2024**

**SECTION 10. OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

A. Council shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Manager; provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter, City Codified Ordinances, or any other law.

B. All applicable provisions of the City Charter, City Codified Ordinances, regulations and rules of the City relating to retirement and pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereinafter may exist in the City, in addition to said benefits enumerated specifically for the benefit of the Manager, except as herein provided, shall also apply to the Manager, unless explicitly modified herein.

**SECTION 11. GENERAL PROVISIONS**

A. The text herein shall constitute the entire agreement between the parties, and replaces and supersedes any previous Agreements.

B. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

D. This Agreement shall become effective commencing January 1, 2025. If executed after such date, this agreement shall apply retroactively to January 1, 2025.

**Exhibit A – R-53-2024**

This Agreement is executed this \_\_\_\_ day of December, \_\_\_\_\_ at New Albany, Ohio.

\_\_\_\_\_  
SLOAN T. SPALDING, MAYOR  
CITY OF NEW ALBANY, OHIO

\_\_\_\_\_  
JOSEPH F. STEFANOV, CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
BENJAMIN ALBRECHT, LAW DIRECTOR

**Fiscal Officer's Certificate**

As Finance Director of the City of New Albany, I do hereby certify that funds in the amount designated in this Contract have been lawfully appropriated or authorized or directed for the contract between the City of New Albany and Joseph F. Stefanov for this Contract and is in the treasury or in the process of collection to the credit of the appropriate fund free from any obligation or certification now outstanding.

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

\_\_\_\_\_  
Bethany Staats, FINANCE DIRECTOR



## RESOLUTION R-54-2024

### A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A COMMUNITY REINVESTMENT AREA AGREEMENT WITH NAIC PARTNERS, LLC, AND MAKING RELATED AUTHORIZATIONS

**WHEREAS**, the Council for the City of New Albany, Ohio (the "City") by its Resolution No. R-17-09 adopted March 3, 2009 (the "Original CRA Legislation"), created the Oak Grove II Community Reinvestment Area (the "Original Area"), and by its Resolutions No. R-41-10 adopted July 6, 2010, No. R-72-10 adopted November 16, 2010, No. R-53-2012 adopted October 2, 2012, No. R-26-2013 adopted August 6, 2013, No. R-72-2014 adopted September 16, 2014, and R-49-2015 adopted November 17, 2015, No. R-45-2016 adopted November 1, 2016, No. R-02-17 adopted February 7, 2017, No. R-17-18 adopted July 17, 2018, No. R-41-18 adopted November 6, 2018, No. R-05-2019 adopted February 19, 2019, No. R-37-2019 adopted August 6, 2019, No. R-15-2021 adopted April 6, 2021, No. R-46-21 adopted September 21, 2021, No. R-09-2022 adopted February 1, 2022, No. R-18-2022 adopted May 3, 2022, and No. R-38-2022 adopted November 15, 2022, No. R-21-2023 adopted April 18, 2023, and No. R-46-2023 adopted November 7, 2023 (together the "CRA Expansion Legislation" and collectively with the Original CRA Legislation the "CRA Legislation"), amended the designation of the Original Area to include the area known as the "Johnstown Monroe Area", "Johnstown Monroe Annex", "Licking Heights Annex", "Cobbs Road Annex", "Harrison Road Area", "Innovation Campus Area" "Innovation Campus Way Extension" "Beech Road South", "Babbitt Road", "Central College Road Area", "Jug Street North", "Jug Street South", "Innovation District East", "Innovation District East Expansion", "Mink Street and Green Chapel Road Expansion", "Beech Rd. & US 62 District" and "Northeast Business Park District", respectively, and certain other parcels within the City (collectively, with the Original Area, the "Area"), and designated that entire Area the Oak Grove II Community Reinvestment Area; and

**WHEREAS**, the Directors of the Department of Development of the State of Ohio and the Ohio Development Services Agency (successor and predecessor to one another) have determined and certified that the aforementioned Area contains the characteristics set forth in Ohio Revised Code Section 3735.66 and confirmed that Area as a "Community Reinvestment Area" pursuant to that Section 3735.66; and

**WHEREAS**, NAIC Partners, LLC (the "Company") has submitted to the City the application attached to the Community Reinvestment Area Agreement (the "CRA Agreement") referred to in Section 1 of this Resolution (the "Agreement Application"), together with the fee referred to in Section 6 of that CRA Agreement; and

**WHEREAS**, the Housing Officer of the City designated under Ohio Revised Code Section 3735.65 has reviewed the Application and has recommended the same to this Council on the basis

that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities in the CRA and to improve the economic climate of the City; and

**WHEREAS**, the City, having appropriate authority, desires to provide certain property tax incentives to encourage the development of the Project (as defined in the CRA Agreement); and

**WHEREAS**, the Boards of Education of both the Licking Heights Local School District and the Licking County Joint Vocational School District (also known as “Career and Technology Education Centers of Licking County” or “C-TEC”) have each waived their rights to receive notice under Section 5709.83 of the Revised Code in accordance with their respective compensation agreements entered into with the city of New Albany; and

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

**Section 1. Community Reinvestment Area Agreement.** The CRA Agreement for the Project, by and between the City and the Company, in the form presently on file with the Clerk of the Council which provides for a 100% CRA exemption up to 15-years for the proposed Project is hereby approved and authorized with any changes therein and amendments thereto not inconsistent with this Resolution and not substantially adverse to this City which shall be approved by the city manager. The city manager, for and in the name of this City, is hereby authorized to execute that CRA Agreement and approve the character of any changes or amendments thereto as not inconsistent with this Resolution and not substantially adverse to this City that are approved by the city manager, which approval shall be conclusively evidenced by the city manager's execution of that CRA Agreement.

**Section 2. Further Authorizations.** This Council hereby further authorizes and directs the city manager, the director of law, the director of finance, the community development director, the clerk of council, or any such other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions (including by not limited to making application and preliminary arrangements for financing that is then subject to formal approval by this Council) as may be appropriate to implement this Resolution and the transactions referenced or contemplated in this Resolution and the CRA and the MOU authorized and approved in this Resolution.

**Section 3. Compliance with the Law.** This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Attest:**

---

Sloan T. Spalding  
Mayor

---

Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

---

Benjamin S. Albrecht  
Law Director

**Legislation dates:**

Prepared: 11/20/2024

Introduced: 12/03/2024

Revised:

Adopted:

Effective:



**RESOLUTION R-55-2024**

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT WITH NEW ALBANY TOWNE CENTER LLC AND AMER AMAL TRUST**

**WHEREAS**, it has been the city’s ongoing desire to create a street grid system in the historic Village Center to promote growth, increase pedestrian and vehicular connectivity, and promote a roadway framework complementary to the traditional town center style of development; and

**WHEREAS**, the City Council previously approved Resolution R-49-2023 to purchase property from Innovative Mortgage Real Estate LLC for future public roadway expansions within the agreement area; and

**WHEREAS**, the Urban Center Code requires the extension of Second Street, Third Street, and “Gingko Street” as public streets and additional public alleys to adjoining undeveloped areas to accommodate future connectivity; and

**WHEREAS**, New Albany Towne Center LLC and Amer Amal Trust (the “Parties”) own approximately +/-2.74 acres and intend to develop the same with approximately 4,000 square feet of commercial and retail space and 106 residential units, subject to the receipt of necessary reviews of and approvals by the New Albany Architectural Review Board; and

**WHEREAS**, New Albany Towne Center LLC and Amer Amal Trust agree to dedicate property necessary for public right-of-way via the platting process in exchange for commitments from the city to construct the public infrastructure.

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

**Section 1. Second Amendment to Development Agreement.** The Development Agreement, by and between the city and the Parties, in the form presently on file with the clerk of council, is hereby approved and authorized with any changes therein and amendments thereto not inconsistent with this Resolution and not substantially adverse to this city which shall be approved by the city manager. The city manager, for and in the name of this city, is hereby authorized to execute the Development Agreement and approve the character of any changes or amendments thereto as not inconsistent with this Resolution and not substantially adverse to this city that are approved by the city manager, which approval shall be conclusively evidenced by the city manager’s execution of that agreement.

**Section 2. Compliance with the Law.** This council finds and determines that all formal actions of this council concerning and relating to the adoption of this legislation were taken in an open meeting of this council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

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

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Attest:**

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

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

**Approved as to form:**

\_\_\_\_\_  
Benjamin S. Albrecht  
Law Director

**Legislation dates:**

Prepared: 11/21/2024

Introduced: 12/03/2024

Revised:

Adopted:

Effective:



**AGREEMENT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2024 (the “Effective Date”), by and between the City of New Albany, an Ohio home rule charter municipality (“City”), New Albany Towne Center LLC, an Ohio limited liability company (“NATC”), and Amer Amal Trust, an Ohio trust (“Amer Amal Trust”), which is the owner of certain property located at 48 North High Street, 34 Cherry Alley, 34 North High Street, 42 North High Street, 28 North High Street, and additional unaddressed properties along Cherry Alley located in the City (the “Property”, also known on the Effective Date as Franklin County Auditor Parcel Numbers 222-000013, 222-000051, 222-000052, 222-000060, 222-000085, 222-000086, and 222-000112). (The City, NATC, and Amer Amal Trust are collectively referred to as the “Parties” or individually as a “Party”)

**WITNESSETH THAT:**

In consideration of the mutual covenants hereinafter contained and for the purpose of improving road connectivity and future traffic circulation:

WHEREAS, the City’s Urban Center Code requires the extension of Second Street, Third Street, and Ginkgo Street as public streets and additional public alleys to adjoining undeveloped areas to accommodate future connectivity of the site as depicted in Exhibit A; and

WHEREAS, the Amer Amal Trust has agreed to remove and relocate the southern curb cut and access along North Street to a new public street known as Ginkgo Street, as is depicted on Exhibit B; and

WHEREAS, NATC is in contract to purchase the Property, which is shown on Exhibit C, and intends to develop the same with approximately 4,000 square feet of commercial and retail space, and 106 residential units, subject to the receipt of necessary reviews of and approvals by the City’s Architectural Review Board (the “ARB”); and

WHEREAS: the Parties have reached an agreement for the dedication of the necessary public right-of-way via the platting process in exchange for commitments from the City memorialized herein.

**NOW THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

**I. COMMITMENTS BY AMER AMAL TRUST & NATC**

- A. The Amer Amal Trust, itself and on behalf of its successors or assigns, as the owner of the Property, agrees to convey to City, at no cost, a maximum of 49 feet of right-of-way width for Ginkgo Street, Second Street, and Third Street and a maximum of 18 feet of right-of-way width for each of Cherry Alley and an unnamed east/west alley along the southern portion of the site, all of which may be utilized for street construction, sidewalks, tree lawns, underground utilities, streetlights, stormwater drainage, detention or retention ponds, and other related improvements, as depicted in Exhibit D. Such dedications shall be completed prior to the City beginning construction of the aforementioned streets and alleys via the execution of a final plat or replat containing these streets and alleys (a “Plat”). NATC consents to these dedications should they occur before it obtains ownership of the Property or, if it does obtain ownership of the Property prior to such dedications having occurred, it agrees to complete such dedications in the same manner as otherwise required by the Amer Amal Trust.

## Exhibit A – R-55-2024

- B. All private site improvements shall be designed and constructed in conformance with the City’s completed 100% construction documents for the Public Street Improvements and city standard construction specifications.
- C. NATC is obligated to prepare all plans, submit, and pay all fees related to a Certificate of Appropriateness application for review by the ARB (a “COA Application”).

## II. COMMITMENTS BY THE CITY

- A. Conveyance of public right of way. The City shall vacate and transfer to Amer Amal Trust, as the owner of the Property (or to NATC or others as a future owner of the Property, if applicable), a section of public right-of-way running east-west and being approximately 8.5 feet wide and 100 feet in length, located between the parcels at 42 North High Street (Franklin County Auditor Parcel Number 222-000060) and 48 North High Street (Franklin County Auditor Parcel Number 222-000013). This vacation and transfer shall occur as part of the approval of the Plat by the New Albany City Council or by a separate action by the New Albany City Council that occurs separately from but at the same meeting as the action to approve the Plat.
- B. Public Street Improvements. The City shall design, construct and pay for improvements and modifications to Gingko Street, Second Street, Third Street, Cherry Alley, and an unnamed east/west alley in accordance with design requirements contained in the COA application and in the approved Plat, including, but not limited to, pavement, relocating private utilities, installation of public utilities, vehicular traffic signage, storm water management infrastructure, streetlights, and lane striping (the “Public Street Improvements”). The City may also, at the City’s option and sole cost and expense, construct and install sidewalks, street trees, and landscaping along portions of Gingko Street, Second Street, and Third Street.
- C. Stormwater Storage. The City shall design, construct and pay for a maximum of 5,490 cubic feet (cf) of stormwater storage volume within the public right-of-way that can credited and utilized by the Property.
- D. Right-of-Way and Plat. The City shall be responsible, at its sole cost and expense, for filing and obtaining approvals necessary to obtain review and approval of the Plat for Gingko Street, Second Street, Third Street, Cherry Alley, and an unnamed east/west alley improvements. The City will pay and be responsible for obtaining approvals for any variances necessary as part of the public street dedication and improvements on the Property.
- E. Project Coordination. The City will work with the Amer Amal Trust and/or NATC to coordinate bi-weekly planning/engineering project review meetings with City staff available to discuss the public and private improvements contemplated in this Agreement (the “Public Street Improvements”) and provide appropriate planning, zoning and engineering feedback. The City will also coordinate weekly commercial plan review meetings wherein the chief building official/commercial plan reviewer and inspectors will set aside time each Thursday morning to meet with the construction team for the Amer Amal Trust and/or NATC. The two meetings may be combined by agreement of the Parties. The weekly meetings may be virtual via an agreed upon on-line meeting platform.
- F. The Public Street Improvements design shall be completed in accordance with the schedule of milestone dates described on Exhibit E hereto.

**Exhibit A – R-55-2024**

**III. OTHER PROVISIONS**

During construction of the Public Street Improvements, the City shall, at its sole cost and expense, provide the Owner and any tenants, occupants, licensees, invitees and guests of the Property (collectively, the “Owner Parties”) vehicular and pedestrian access to and from the Property to a public right-of-way in size and location sufficient to permit customary construction and general operations of the Owner Parties to continue while developing the Property in accordance with relevant permits issued by the City.

**IV. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the Parties and supersedes all previous written and oral negotiations, commitments, and understandings with respect to the subject matter hereof. Its terms, conditions and covenants shall not be altered or otherwise amended except pursuant to an instrument in writing signed by each of the Parties hereto and making specific reference to this Agreement.

**V. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and when taken together shall constitute the entire agreement between the Parties.

**VI. CONSIDERATION**

Each Party to this Agreement recognizes that the rights and benefits received by the respective Parties to this Agreement are valuable and substantial; enforcement of this Agreement cannot be challenged for lack of consideration. The respective obligations of the Parties hereto shall be conditioned upon the COA Application having been approved by the City’s Architectural Review Board within four (4) calendar months after the COA Application is first placed on a meeting agenda for consideration by the ARB.

This Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors and assigns, including (but not limited to) successors owners of the Property.

IN WITNESS WHEREOF, the City, has signed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2024, NATC has signed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2024 and Amer Amal Trust has signed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**AMER AMAL TRUST**

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

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

Its: \_\_\_\_\_

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

**Exhibit A – R-55-2024**  
NEW ALBANY TOWNE CENTER LLC

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

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

Its: \_\_\_\_\_

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

**CITY OF NEW ALBANY, OHIO**

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

Joseph F. Stefanov, New Albany City Manager

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

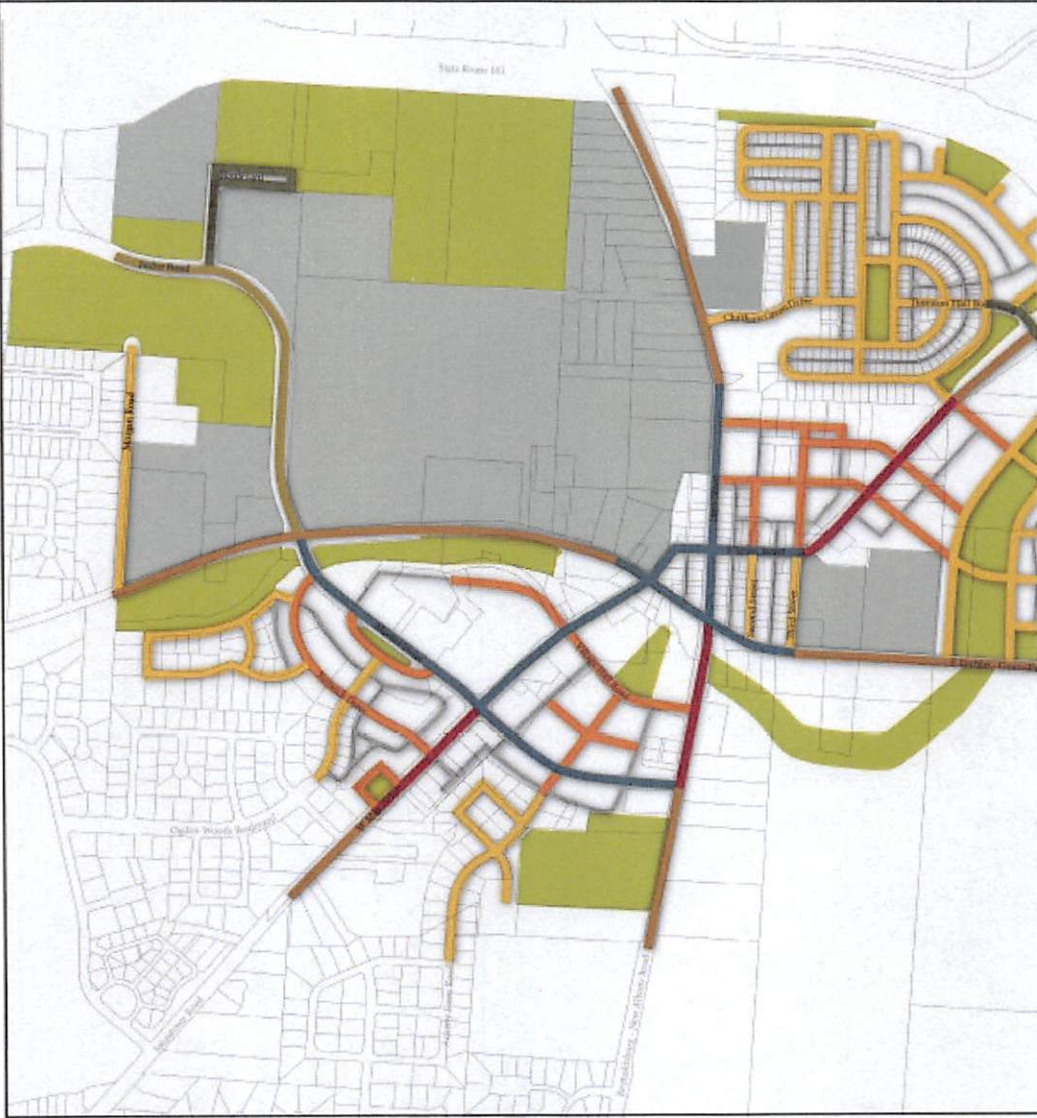
Approved as to Form

\_\_\_\_\_  
Ben Albrecht, New Albany Law Director

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

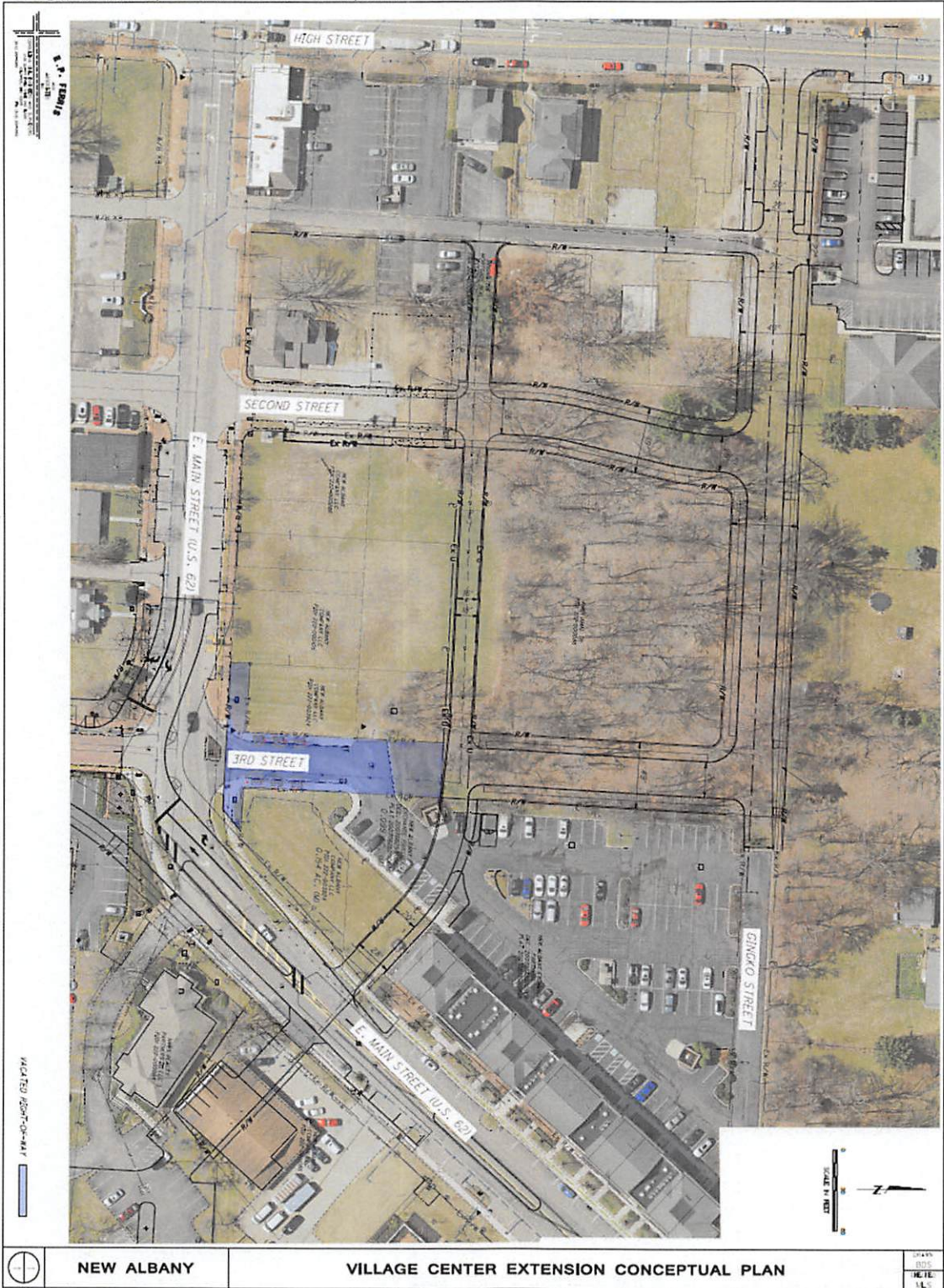
**EXHIBIT A**

STREETS STANDARDS PLAN





**EXHIBIT B**



NEW ALBANY

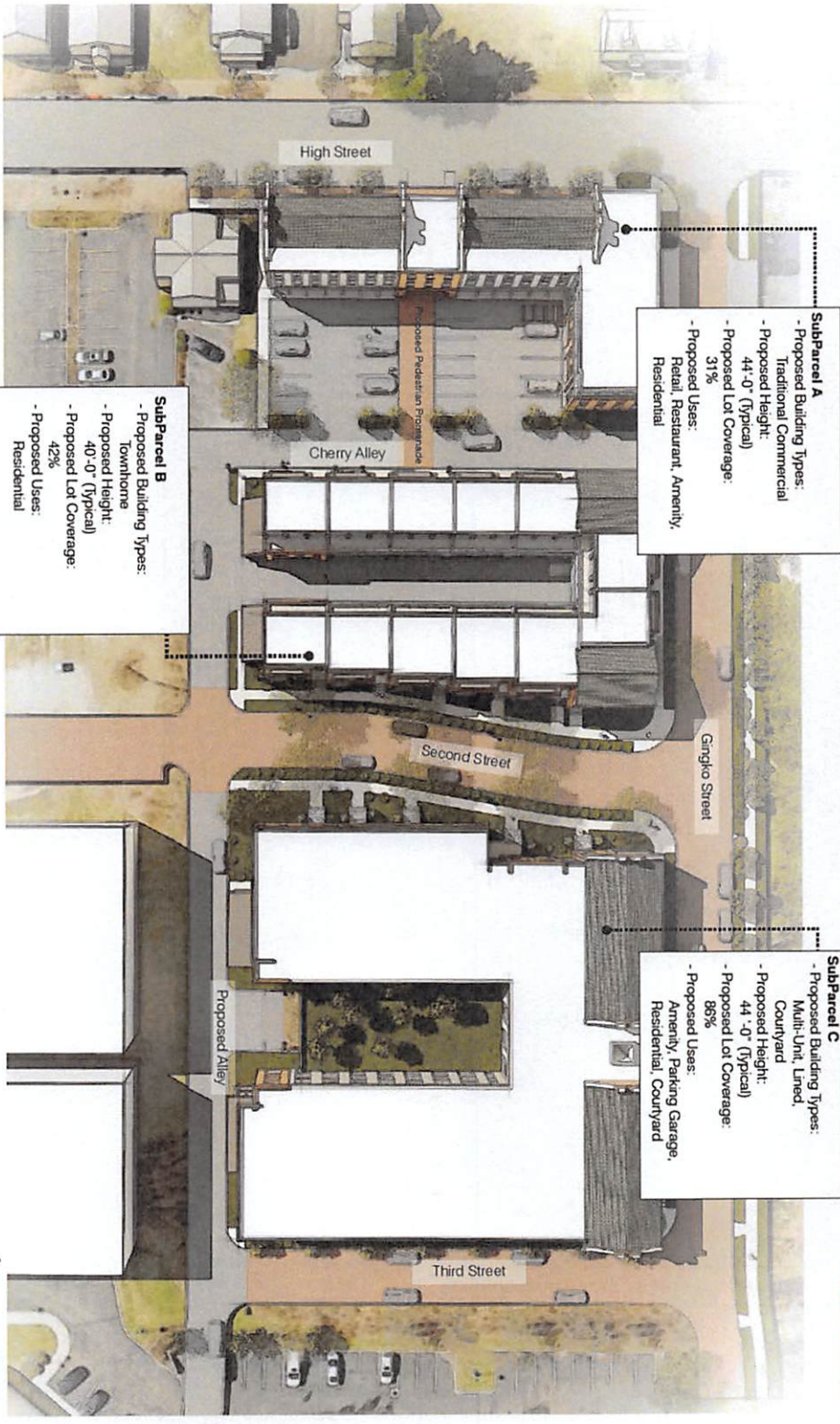
VILLAGE CENTER EXTENSION CONCEPTUAL PLAN

DATE: 11/15/23  
SCALE: 1/8" = 1'-0"



**Exhibit A – R-55-2024**  
**EXHIBIT C**

New Albany Town Center // Design Intent Package  
 FEBRUARY 12, 2024  
www.newalbanyvt.com



**SubParcel A**

- Proposed Building Types: Traditional Commercial
- Proposed Height: 44'-0" (Typical)
- Proposed Lot Coverage: 31%
- Proposed Uses: Retail, Restaurant, Amenity, Residential

**SubParcel B**

- Proposed Building Types: Townhome
- Proposed Height: 40'-0" (Typical)
- Proposed Lot Coverage: 42%
- Proposed Uses: Residential

**SubParcel C**

- Proposed Building Types: Multi-Unit, Lined, Courtyard
- Proposed Height: 44'-0" (Typical)
- Proposed Lot Coverage: 86%
- Proposed Uses: Amenity, Parking Garage, Residential, Courtyard

Proposed Site Plan 13

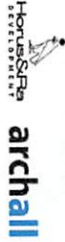
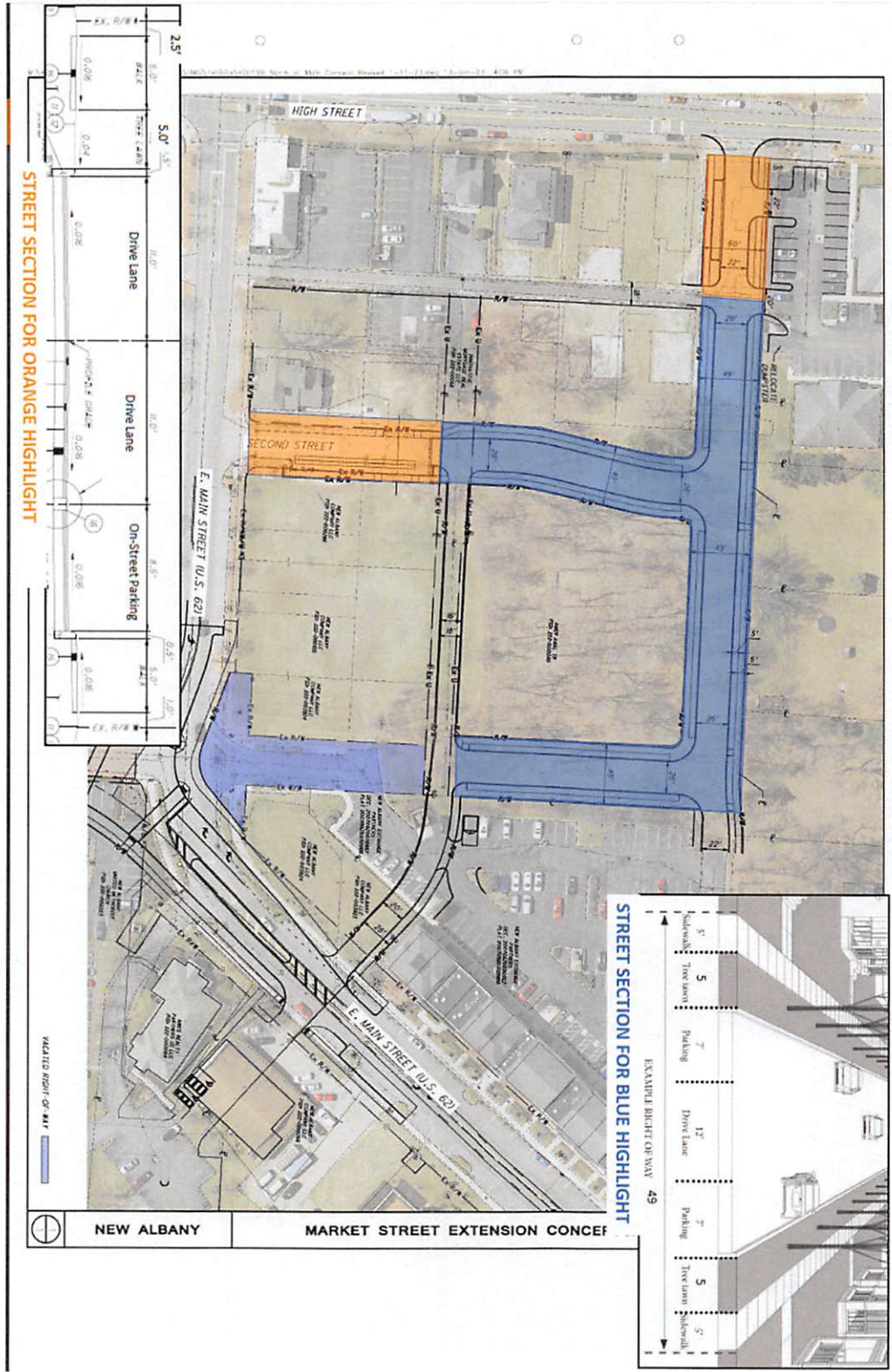


Exhibit A – R-55-2024

EXHIBIT D





**Exhibit A – R-55-2024**

**EXHIBIT E - Milestone Dates**

<b>ACTIVITY</b>	<b>DATE</b>
City completes design of final plat for streets and alleys (creation of the document)	August 5, 2024
30% DD design plans (line, grade, and typical)	April 30, 2024
City council authorizes the city manager to enter into the development agreement*	December 3, 2024
Horus & Ra submits Certificate of Appropriateness applications	December 13, 2024
City Planning Commission hearing date for street and alley final plat	December 16, 2024
City Council 1st reading date for street and alley final plat	January 7, 2025
100% CD street and alley design plans finished for (street, storm, and water)	January 7, 2025
City Architectural Review Board hearing date for Certificate of Appropriateness applications related to the private development	January 13, 2025
City Council 2nd reading and approval date for street and alley final plat	January 21, 2025
City council authorizes staff to bid and award the project	January 21, 2025*
Horus & Ra submits private site improvement plans	January 22, 2025 (once the plans are approved at a later date the private site construction can begin)
The effective date for the street and alley final plat	February 20, 2025 (The plat must be fully signed and recorded with the county prior to the city commencing construction )
City begins construction of street infrastructure*	April 1, 2025*
City completes construction of street infrastructure*	April 2026*

\*Tentative dates that are subject to change.



**RESOLUTION R-56-2024**

**A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH PLAIN TOWNSHIP AND THE NEW ALBANY PLAIN LOCAL JOINT PARKS DISTRICT FOR THE DEVELOPMENT OF A MULTI-PURPOSE FIELDHOUSE AND COMMUNITY CENTER**

**WHEREAS**, the City of New Albany desires to expand and enhance access, programming and the level of service provided to the community through the construction of a multi-purpose fieldhouse and community center ("Facility"); and

**WHEREAS**, the parties recognize the community will benefit by this cooperative effort to expeditiously facilitate the design, permitting, and construction of the Facility; and

**WHEREAS**, the Facility will be constructed on a tract of land currently owned by the City of New Albany, within Plain Township, and is subject to future annexation by the City of New Albany; and

**WHEREAS**, the parties desire to memorialize the commitments through an Intergovernmental Agreement to advance the design, permitting, and construction of the Facility.

**NOW, THEREFORE**, be it resolved by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that;

**Section 1.** The city manager is hereby authorized and directed to enter into an Intergovernmental Agreement, the same or substantially similar to Exhibit A, with Plain Township and the New Albany Plain Local Joints Parks District to facilitate the development of the Facility.

**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(a) of the New Albany Charter, this resolution shall take effect upon adoption.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Attest:**

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Sloan T. Spalding  
Mayor

---

Jennifer H. Mason  
Clerk of Council

**Approved as to form:**

---

Benjamin S. Albrecht  
Law Director

**Legislation dates:**

Prepared: 11/25/2024

Introduced: 12/03/2024

Revised:

Adopted:

Effective:

**Exhibit A - R-56-2024**

**INTERGOVERNMENTAL AGREEMENT**

This Intergovernmental Agreement (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024 (the “Effective Date”) by and between the **City of New Albany, Ohio** (“New Albany” or the “City”), an Ohio Charter municipal corporation, having its primary address at 99 W. Main Street, New Albany, Ohio 43054, **Plain Township**, Franklin County, Ohio (“Township”), an Ohio township having its address at 45 Second Street, New Albany, Ohio 43054, and the **New Albany Plain Local Joint Parks District** (“Joint Parks District” or “JPD”) having its address at 7860 Bevelhymer Road, New Albany, Ohio 43054. Each political subdivision may be referred to as a “Party” in this Agreement, and collectively all political subdivisions shall be referred to as the “Parties.” All Parties are political subdivisions and validly exist under the laws of the State of Ohio.

**W I T N E S S E T H:**

A. The JPD desires to construct a multi-purpose fieldhouse and community center (“Facility”) to expand and enhance access, programming and the level of service provided to the community.

B. In November, 2022, residents of the JPD voted to approve a bond and levy to pay for the construction and operation of the Facility.

C. The Facility will be located on a tract of land owned by the City and currently located in the Township, north of Walnut Street and west of Bevelhymer Road as generally shown on Exhibit A.

D. The City is actively collaborating with the City of Columbus, Ohio (“Columbus”) to amend the water and sanitary sewer service area boundary to include unannexed land area adjacent to the City’s corporate boundary as shown on Exhibit B.

E. The Facility will be located within the area of the pending water and sanitary boundary adjustment referenced above in Paragraph D.

F. At such time as the collective legislative processes have been completed and the subject boundary adjustment by Columbus becomes effective, the City shall begin the process of annexing the land area upon which the Facility will be located from the Township to the City.

G. This Agreement memorializes the commitments of the Parties to expeditiously advance the final design, permitting and construction of the Facility.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the Parties hereby Agree as follows:

**SECTION 1: AUTHORITY**

- 1.1 The City, Township and JPD each have the authority and power under the Constitution, statutes and laws of the State of Ohio and the additional authority of the City under its Charter, to enter into agreements with other governmental entities and political subdivisions for the exercise of any and all powers, performance of any function or rendering of any service determined to be mutually beneficial to the Parties, including but not limited to making roadway and utility improvements, acquiring necessary real property and interests therein including temporary and permanent right-of-way.

**SECTION 2: PURPOSE**

- 2.1 The City, Township and JPD desire to enter into this Agreement because the community will benefit by this cooperative effort to expeditiously facilitate the design, permitting, development, construction and operation of the Facility which is complimentary to the collective priorities of the Parties.

**SECTION 3: AGREEMENT DESCRIPTION**

This Agreement is intended to outline the agreement of the Parties relative to the pending water and sanitary sewer service area boundary adjustment; the annexation and rezoning of land area owned by the City; the pertinent roadway and utility infrastructure improvements; the dedication of public rights-of-way and the design, plan review, permitting as necessary to support the construction and operation of the Facility.

- 3.1 Upon the completion of pending water and sanitary sewer service area boundary adjustments between the City and Columbus, the City will expand its corporate boundary by annexing the tract of land from the Township to the City as depicted in Exhibit B.
- 3.2 Upon the annexation of the property to the City, the City shall proactively take all necessary steps to rezone the property on which the Facility is to be located to CF, or other appropriate zoning classification, such that the Facility may be used for its intended purpose.
- 3.3 The City shall dedicate 40' of public right-of-way along the north side of Walnut Street and the west side of Bevelhymer Road as depicted on Exhibit B, respectively, upon completion of the annexation process.
- 3.4 The JPD agrees to dedicate 40' of public right-of-way along the east side of Bevelhymer Road as depicted on Exhibit B.
- 3.5 The dedication of right-of-way by both the City and the JPD shall result in a combined 80' of right-of-way along both Walnut Street and Bevelhymer Road.

- 3.6 As depicted on Exhibit A, the Parties shall work cooperatively in providing for certain public roadway, water and sanitary sewer infrastructure improvements to provide vehicular access and utility service to the Facility.
- 3.7 Any public roadway improvements demonstrated to be necessary to support the Facility, including but not limited to those as depicted on Exhibit A, will be designed, constructed, and paid for by the City and included with the planned improvement of the intersection of Walnut Street and Bevelhymer Road.
- 3.8 The City agrees to design, construct and pay for the extension of public water and sanitary sewer infrastructure to mutually acceptable locations generally located along the frontage of the public roadways on its property as generally depicted on Exhibit A.
- 3.9 Following the extension and construction of the water and sanitary sewer infrastructure referenced in Section 3.7, the JPD shall design, construct and pay for the extension of the private water and sanitary sewer service connections from a point along the frontage of the public roadways to the Facility as generally depicted on Exhibit A.
- 3.10 The City and the JPD shall work collaboratively to expedite the construction of public utilities necessary to service the Facility and agree to identify the most expeditious path to commence construction.
- 3.11 The City and JPD acknowledge that the most expeditious path to commence construction may indicate that infrastructure improvements identified as the financial responsibility of the City within this Agreement are constructed and paid for by the JPD, subject to reimbursement by the City.

#### **SECTION 4: CONSENT STATEMENT**

- 4.1. In consideration of the pending annexation of the land area from the Township to the City, the Township authorizes the City to take exclusive charge for any and all permitting, plan review and inspection related to the planning, zoning, private site and building improvements as necessary to advance the construction of the Facility as outlined herein and generally depicted on Exhibit A, as well as exercise any power, perform any functions, or render any service on behalf of the Township that the Township may otherwise exercise, perform or render, including but not limited to the review, approval and issuance of any zoning, building, and private site development permits, construction inspection, etc. To the extent that the City is required to access any Township property to comply with its obligations set forth herein, the Township shall permit such access.

#### **SECTION 5: COOPERATION STATEMENT**

- 5.1 The Parties agree that they shall cooperate in good faith to facilitate an expeditious path to review, permit and advance construction of the Facility. The parties shall act in good faith from taking any action that would directly, or indirectly, delay the construction of

the Facility. However, the parties recognize that certain obligations set forth herein are dependent upon the actions and/or approval of public entities not subject to this Agreement.

## **SECTION 6: EFFECTIVE DATE AND TERMINATION OF AGREEMENT**

- 6.1 This Agreement shall become effective on the date first written above.
- 6.2 For the benefit of all Parties and the convenience and welfare of the public, this Agreement shall not be amended, terminated or suspended except by mutual written agreement of all Parties, or as otherwise set forth herein.
- 6.3 Notwithstanding the provisions of Section 6.2, the Agreement will automatically terminate for the Township at such time as the subject annexation of land area from the Township to the City becomes effective, and upon substantial completion of the Facility for the JPD. In no event, however, shall the Agreement remain in effect beyond January 1, 2028, regardless of whether the foregoing conditions have been satisfied.

## **SECTION 7: MISCELLANEOUS TERMS AND CONDITIONS**

- 7.1 Entire Agreement. This Agreement, and any documents incorporated by reference herein, shall constitute the entire understanding and agreement between the Parties, shall supersede all prior understandings and agreements relating to the subject matter hereof, and may only be amended in writing with the mutual consent and agreement of the Parties, except as otherwise provided in this Agreement.
- 7.2 Notices. Any notice required to be given hereunder shall be given in writing by e-mail effective upon confirmation of delivery and receipt to the e-addressee, by certified United States mail, postage prepaid with confirmation of delivery and receipt, or by hand delivery addressed to the parties at their respective addresses as set forth below. Each Party shall notify every other party, in writing, promptly upon the change of any information provided below including the name of any person or any street or e-address:

**If to the City:**

The City of New Albany  
Attn: Joseph Stefanov, City Manager  
99 W. Main Street  
New Albany, Ohio 43054  
e-mail: [jstefanov@newalbanyohio.org](mailto:jstefanov@newalbanyohio.org)

**If to the Township:**

Plain Township  
Attn: Ben Collins, Township  
Administrator  
P.O. Box 273  
New Albany, Ohio 43054  
e-mail: [bcollins@plaintownshiop.org](mailto:bcollins@plaintownshiop.org)

**With a copy to:**

Fishel, Downey, Albrecht & Riepenhoff, LLP  
Attn: Benjamin S. Albrecht, Law  
Director  
7775 Walton Parkway, Suite 200  
New Albany, Ohio 43054  
e-mail: [balbrecht@fisheldowney.com](mailto:balbrecht@fisheldowney.com)

**If to the Joint Parks District:**

New Albany Plain Local Joint Parks District  
Attn: David Wharton, Director  
7860 Bevelhymer Road  
New Albany, Ohio 43054  
e-mail: [dwharton@naparks.org](mailto:dwharton@naparks.org)

- 7.3 **Amendments.** This Agreement may be amended by all Parties upon their mutual written agreement. It is anticipated and agreed by the Parties that this Agreement may also be amended to include additional projects by and among some or all of the Parties, as necessary and appropriate, for the additional project. This Agreement may also be modified or amended to include additional roads and/or property upon the written consent of the Parties who have jurisdiction of or are assuming responsibility for all or any portion of such road and/or its improvements.
- 7.4 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Ohio. Any and all legal disputes arising from this Agreement shall be filed in and heard before the courts of Franklin County, Ohio.
- 7.5. **Headings.** The subject headings of the sections and subsections in this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by all Parties and no purposes of interpretation shall be made to the contrary.
- 7.6 **Waivers.** No waiver of breach of any provision of this Agreement shall in any way constitute a waiver of any prior, concurrent, subsequent, or future breach of this Agreement or any other provision hereof. No term or provision of this Agreement shall be deemed waived, and no breach excused, unless such a waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver or consent is expressly made in writing and signed by the party claimed to have waived or consented. Such waiver shall not constitute and shall not in any way be interpreted as a waiver of any other term or provision or future breach unless said waiver expressly states an intention to waive another specific term or provision or future breach.
- 7.7 **Ambiguity.** The Parties have participated jointly in the negotiation and drafting of this Agreement. Should any ambiguity or question of intent or interpretation arise with respect to any provision of this Agreement, including any exhibit hereto, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of



proof shall arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement.

- 7.8. **Severability.** If any item, condition, portion, or section of this Agreement or the application thereof to any person, premises, or circumstance shall to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition, provision, or section to persons, premises, or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, conditions, provisions, or sections hereof shall, in all other respects, continue to be effective and to be complied with.
- 7.9 **No Third-Party Beneficiary.** Only the Township, the Joint Parks District and the City shall have any rights under this Agreement. No other persons or entities shall have any rights under this Agreement or be deemed to be third-party beneficiaries of this Agreement.
- 7.10 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. The terms of this Agreement are hereby agreed to by the Parties, as shown by the signatures of representatives of each. Each Party represents that the signatories hereto have been duly authorized to execute this Agreement on behalf of the Party. The delivery of a signed copy of this Agreement by e-mail transmission in Portable Digital Format (pdf), certified mail or personal delivery shall constitute effective execution and delivery of this Agreement as to the Parties and creates a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such copy of a signature page were an original Agreement. Signatures of the Parties to this contract transmitted by PDF will be deemed to be their original signatures for all purposes. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

**SECTION 8: AUTHORITY TO SIGN**

Each party adopted legislation authorizing the execution and delivery of this Agreement as follows:

City of New Albany, Resolution No. \_\_\_\_\_ on \_\_\_\_\_, 2024.

Plain Township, Resolution No. \_\_\_\_\_ on \_\_\_\_\_, 2024.

Joint Parks District, Resolution No. \_\_\_\_\_ on \_\_\_\_\_, 2024.

**City of New Albany**

**Plain Township**

\_\_\_\_\_  
Joseph Stefanov, City Manager

\_\_\_\_\_  
Ben Collins, Township Administrator

Approved as to form for City

**New Albany Plain Local Joint Parks District**

\_\_\_\_\_  
Benjamin S. Albrecht, Law Director

\_\_\_\_\_  
David Wharton, Director

EXHIBIT A

