

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
TO BE HELD ON TUESDAY, MARCH 5, 2019
7:00 P.M.**

I. ROLL CALL OF MEMBERS:

II. PLEDGE OF ALLEGIANCE:

III. DISCUSSION:

IV. FINANCE COMMITTEE - CHAIRMAN, SCOTT:

1. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CHANGE ORDER BETWEEN BREWER-GARRETT COMPANY AND THE CITY OF BROOK PARK TO CHANGE PLANS IN THE COUNCIL CHAMBERS/COURT AREA AND THE TAX DEPARTMENT IN THE JOHN A POLOYNE COMMUNITY CENTER AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

V. LEGISLATIVE COMMITTEE - CHAIRMAN, MENCINI:

1. AN ORDINANCE AMENDING CHAPTER 1333 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'SWIMMING POOLS' AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

2. AN ORDINANCE AMENDING ORDINANCE NO. 10094-2017, AUTHORIZING THE MAYOR TO ACCEPT ADDITIONAL FUNDS UP TO \$248,000.00 IN ENVIRONMENTAL GRANT FUNDS FROM THE STATE OF OHIO DEPARTMENT OF DEVELOPMENT SERVICES AGENCY, OFFIC OF COMMUNITY DEVELOPMENT AND/OR THE STATE OF OHIO BUREAU OF UNDERGROUND STORAGE TANK REMOVAL (BUSTR) TO PERFORM AN ENVIRONMENTAL IMPACT STUDY AND/OR TO FACILITATE AND ADMINISTER THE ENVIRONMENTAL REMEDIATION OF THE PROPETY KNOWN AS 6286 ENGLE ROAD, PPN 342-09-011 AND TO TAKE ALL FURTHER NECESSARY ACTION TO REMEDIATE THE PROPERTY AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella. **In attendance: Jason Grecco**

VI. SERVICE COMMITTEE - CHAIRMAN, ORCUTT:

1. A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE CITY OF MIDDLEBURG HEIGHTS FOR THE RESURFACING OF SHELDON ROAD AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

VII. ADJOURNMENT:

Posted 3/1/19

2-19-19 Finance
CA PRIOR 3-5-19
1st R _____
2nd R _____
3rd R _____
VC _____

CITY OF BROOK PARK, OHIO

ORDINANCE NO: _____

INTRODUCED BY: MAYOR GAMMELLA

AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A CHANGE ORDER
BETWEEN BREWER-GARRETT COMPANY AND THE CITY OF BROOK PARK
TO CHANGE PLANS IN THE COUNCIL CHAMBERS/COURT AREA
AND THE TAX DEPARTMENT IN THE
JOHN A. POLONYE COMMUNITY CENTER,
AND DECLARING AN EMERGENCY

WHEREAS, a Performance Contract and Service Agreement between the City of Brook Park and Brewer-Garrett Company was entered into on April 6, 2017; and

WHEREAS, said Service Agreement provided that the Brewer-Garrett Company was to perform services for the City of Brook Park; and

WHEREAS, there is a need to amend the Service Agreement with the Brewer Garrett Company to make a change in plans to provide a wall in the Tax Department and build a ramp and wall in the Council Chambers/Court area of the John A. Polonye Community Center; and

NOW THEREFORE BE IT ORDAINED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: The Finance Director is hereby authorized to pay the Brewer-Garrett Company for a change order as listed in Exhibit "A," attachd hereto for the John A. Polonye Community Center.

SECTION 2: The money needed for the aforesaid transaction shall be paid from the capital improvement fund 401 therefore appropriated or to be appropriated for said purpose in the amount of \$12,470.00.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public

in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason to enter into a change order for the John A. Polonye Community Center with the Brewer-Garrett Company; provided this ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

APPROVED: _____
MAYOR

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS



DIRECTOR OF LAW

DATE



Brewer-Garrett

6800 EASTLAND ROAD
MIDDLEBURG HTS., OH 44130

440-243-3535

February 1, 2018

Ted Hurst
City Building Commissioner
City of Brook Park
6161 Engle Rd.
Brook Park, OH 44142

Re: Brook Park City Council South Wall

Dear Mr. Hurst:

At the request of the City, The Brewer-Garrett Company has explored the solution and provided the scope and cost required to remove the existing south wall in the new City Council Chambers.

This proposal includes all labor, materials, and equipment to fur out/laminate the existing south wall in the City Council Chambers area. This includes removal of the existing mirrors (to be discarded as they are unsalvageable), installation of hat channel and/or metal studs and drywall on masonry walls and columns, laminating of drywall over existing metal panels at upper areas, and associated taping and finishing.

We have formulated the costs of the above described scope. The scope of work also includes all scheduling, project management, and oversight of work.

Based on implementation of the above scope, Brewer-Garrett will be responsible for all aspects and results of the project.

Total Cost

\$23,780

Thank you for considering The Brewer-Garrett Company as part of this opportunity. Please contact me with any questions and we look forward to hearing back from you regarding this proposal.

Very Truly Yours,
The Brewer-Garrett Company

Matthew Joseph
Project Development Specialist



P/C 2-19-19 LEGISLATIVE
CA PRIOR 3-5-19
1st R _____
2nd R _____
3rd R _____
B/C _____

CITY OF BROOK PARK, OHIO

ORDINANCE NO: _____

INTRODUCED BY: MAYOR GAMMELLA

AN ORDINANCE
AMENDING CHAPTER 1333
OF THE BROOK PARK CODIFIED ORDINANCES
ENTITLED 'SWIMMING POOLS,'
AND DECLARING AN EMERGENCY

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: Chapter 1333 of the Codified Ordinances of the City of Brook Park is hereby amended to read as follows:

1333.01 DEFINITIONS.

For the purposes of this chapter the term "swimming pool" or "pool" as used herein shall include all of the following:

(a) "Recessed ~~outdoor~~ swimming pool" means any artificial water pool, ~~permanent in nature~~, of steel, masonry, concrete, aluminum or plastic construction, located out-of-doors, which has a water surface area of 300 square feet or more or a depth at any point of more than two feet, or both.

(b) "Above-ground ~~semi-permanent outdoor~~ swimming pool" means any artificial water pool, ~~semi-permanent in nature~~, of ~~redwood or other wood construction~~, located out-of-doors, of steel, masonry, concrete, aluminum, vinyl or plastic construction, which has a water surface area of 300 square feet or more or a depth at any point of more than two feet, or both.

(c) "Portable plastic or vinyl ~~outdoor~~ swimming pool" means any artificial water pool, portable in nature, of plastic or vinyl construction, ~~located out-of-doors~~, which has a water surface area of 300 square feet or more or a depth at any point of more than two feet, or less both.

(d) "Commercial or Public Pool" means any pool not located on residential property.

1333.02 COMPLIANCE REQUIRED.

No ~~permanent~~ swimming pool, which is not enclosed in a permanent building or like structure, shall be constructed or maintained in the City until the requirements and conditions of this chapter are complied with.

Exception: Spas and Hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this code.

1333.03 POOL DISTANCE FROM PROPERTY LINES AND MAIN BUILDING.

Every pool hereafter built shall be located upon the lot or parcel to allow a safe distance between the pool and the property lines, so that children of tender age may be readily observed when approaching or in the vicinity of the pool. A distance of ten five feet from each property side line and rear line, and ten feet to the rear of the main building to which such pool is accessory shall be presumed a minimum safe distance for this purpose. A minimum distance of 15 feet must be maintained between a pool and any other Residential Dwelling.

1333.04 FENCING REQUIREMENTS.

Every pool heretofore or hereafter constructed, with the exception of ~~semi-permanent~~ above-ground pools which have a built-in fence that is acceptable to the Building Commissioner, shall have erected around it a closed or open fence which shall be of rigid construction, not more than six feet nor less than forty-two inches in height, shall extend to within four inches of the ground and contain, except for gates, no openings larger than six inches square. Gates shall be securely locked, and such locks shall be of the self-locking type, when such pool is not in use by the owner thereof or anyone using the same with his permission. When the rear yard of a residence is enclosed by a closed or open fence not more than six feet nor less than forty-two inches high, and contains self-locking gates, no additional fence will be required hereunder. A portable plastic or vinyl outdoor swimming pool two feet or under in height shall have a protective cover of plastic, and shall be properly secured when not in use.

1333.05 CONFORMANCE TO NATURAL GRADE; EXCEPTIONS.

Every swimming pool hereafter constructed shall substantially conform to the natural grade of the surrounding land, and no part thereof, other than a diving board or similar equipment, and the fence referred to in Section 1333.04, shall be higher than one foot above such grade.

1333.06 DRAINAGE AND FILTRATION UNIT.

Every pool, with the exception of a portable plastic or vinyl outdoor swimming pool, shall be so constructed that it can be drained into a City storm sewer and shall have a sump located in its deepest part, for the purpose of pumping out all of the water into a storm sewer opening, sump well or other adequate drain opening. Every pool shall be equipped with a filtration unit of sufficient size and capacity to insure the healthful operation and maintenance of such pool.

~~Portable plastic or vinyl outdoor swimming pools that are thirty inches high by twelve feet in diameter or over shall be equipped with a filtration unit of sufficient size and capacity to insure the healthful operation and maintenance of such pool, and shall drain into a storm sewer.~~ Portable plastic or vinyl outdoor swimming pools that can not be emptied and sanitized on a daily basis will be required to have a proper filtration system installed.

1333.07 USE OF ARTIFICIAL ILLUMINATION.

If flood or other artificial light is used to illuminate the pool at night, none of the lights shall be used after 10:30 p. m. local time, if the pool is located within 200 feet of any building used for dwelling purposes. The lights shall also be shielded to direct light only on the pool. All such lighting must conform to the ~~Electrical Code of the City of Brook Park.~~

National Electric Code.

1333.08 PERMIT REQUIRED; FEE.

No pool regulated by this charter shall hereafter be constructed or established unless a permit to do so is first obtained from the Building Commissioner. The fee schedule for such permit shall be as follows:

- (a) Recessed ~~outdoor~~ swimming pools ~~\$20.00~~ \$75.00
- (b) Aboveground ~~semi-permanent outdoor~~ swimming pools ~~\$10.00~~ \$50.00
- (c) Portable plastic or vinyl ~~outdoor~~ swimming pools No fee
~~A thirty dollar (\$30.00) fee shall be charged for commercial or public swimming pools.~~
- (d) Commercial or Public swimming pools. \$200.00

1333.09 APPEAL OF PERMIT REFUSAL.

A refusal by the ~~Director of Public Service~~ Building Commissioner to issue a permit as provided in Section 1333.08 may be appealed in writing within ten days after such refusal to the Board of Zoning and Building Appeals, as provided for in other cases of appeals thereto. The Board shall, in accordance with its rules of procedure, investigate such application and refusal, and render final judgment based on whether, in its opinion, the provisions of this chapter have been and will be complied with.

1333.10 LIFEGUARDS.

No owner, operator, manager or agent, being in charge of a commercial establishment or multi-family establishment, shall permit any pool used in connection with such commercial establishment or multi-family establishment to be used by any person unless there is on duty at all times within the immediate area of the pool a lifeguard at least sixteen years of age who shall have successfully completed the American Red Cross Senior Life Saving Course. No person shall use a pool that is maintained in connection with a commercial establishment or a multi-family establishment unless there is on duty a lifeguard as herein provided.

Presentation of American Red Cross credentials shall be made at the time of application for employment by the City at any City owned pool.

All privately operated pools at motels, hotels or multi-family establishments within the confines of the City must upon request provide the proper City officials with proof of qualified lifeguards in their employ.

1333.99 . PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree, punishable under Charter 501 of the Codified Ordinances.

SECTION 2. Existing Chapter 1333 of the City's Codified Ordinances and all other Ordinances inconsistent herewith are hereby repealed.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason to amend Chapter 1333 of our codified ordinances; therefore, provided this Ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
Clerk of Council

APPROVED: _____
MAYOR

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS

DATE



DIRECTOR OF LAW

P/C 2-19-19 legislative
CA PRINC 3-5-19
1st R _____
2nd R _____
3rd R _____
B/C _____

CITY OF BROOK PARK, OHIO

ORDINANCE NO: _____

INTRODUCED BY: MAYOR GAMMELLA

AN ORDINANCE AMENDING ORDINANCE NO. 10094-2017, AUTHORIZING THE MAYOR TO ACCEPT ADDITIONAL FUNDS UP TO \$248,000.00 IN ENVIRONMENTAL GRANT FUNDS FROM THE STATE OF OHIO DEPARTMENT OF DEVELOPMENT SERVICES AGENCY, OFFICE OF COMMUNITY DEVELOPMENT AND/OR THE STATE OF OHIO BUREAU OF UNDERGROUND STORAGE TANK REMOVAL (BUSTR) TO PERFORM AN ENVIRONMENTAL IMPACT STUDY AND/OR TO FACILITATE AND ADMINISTER THE ENVIRONMENTAL REMEDIATION OF THE PROPERTY KNOWN AS 6286 ENGLE RD., PPN 342-09-011 AND TO TAKE ALL FURTHER NECESSARY ACTION TO REMEDIATE THE PROPERTY AND DECLARING AN EMERGENCY

WHEREAS, Ordinance No. 10094-2017, passed August 15, 2017 authorized the Mayor to accept funds up to \$99,943.42 in environmental grant funds from the State of Ohio;

WHEREAS, pursuant to Resolution No. 7-2017, passed February 21, 2017 the Mayor applied for grant funds from the State of Ohio to environmentally remediate 6286 Engle Rd, PPN 342-09-011 (herein "the Property").

WHEREAS, the City has been awarded an increase up to \$248,000.00 in grant funds from the State of Ohio to conduct an environmental impact study and to remediate environmental contamination on the Property;

WHEREAS, in order to environmentally remediate the Property, the State of Ohio requires the City to accept up to \$248,000.00 and pay up to the same amount, as necessary, to the contractors engaged directly in the environmental remediation of the Property and to facilitate the remediation of the Property.

WHEREAS, the owner of the Property, MNA Properties, Inc. by and through the Mary N. Abdallah Revocable Trust, Mary N. Abdallah Trustee (herein Owner) has agreed to indemnify and hold the City harmless for all sums in excess of \$248,000.00 that may be incurred or arise out of the environmental remediation of the Property;

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Brook Park, State of Ohio that:

SECTION 1: That the Mayor is authorized to accept funds from the State of Ohio up to \$248,000.00 and expend said funds in furtherance of the performance of an environmental impact study and/or remediation of the Property.

SECTION 2: The Mayor is authorized to enter into an indemnification and hold harmless agreement with the Owners of the Property to protect the City in the event the costs arising out of said environmental impact study and/or remediation exceed \$248,000.00.

SECTION 3: No tax or revenue funds of the City of Brook Park shall be encumbered or expended to facilitate the payment of costs or expense arising out of the performance of the environmental impact study and/or remediation exceed of the Property.

SECTION 4: It is found and determined that all formal actions of this Council concerning and relating to this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason that the City of Brook Park supports the environmental analysis and remediation of the Property; provided this Ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

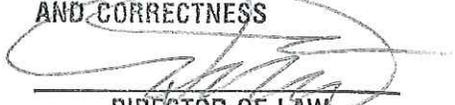
PASSED: _____

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

APPROVED: _____
MAYOR

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS



DIRECTOR OF LAW

DATE

Reference
READ IN ITS ENTIRETY Reference Material

P/C 8-15-17 legislative
CA _____
1st R 8-15-17
2nd R _____
3rd R _____
B/C _____

CITY OF BROOK PARK, OHIO

ORDINANCE NO. 10094-2017

INTRODUCED BY: MAYOR COYNE

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT UP TO \$99,943.42 IN ENVIRONMENTAL GRANT FUNDS FROM THE STATE OF OHIO DEPARTMENT OF DEVELOPMENT SERVICES AGENCY, OFFICE OF COMMUNITY DEVELOPMENT AND/OR THE STATE OF OHIO BUREAU OF UNDERGROUND STORAGE TANK REMOVAL (BUSTR) TO PERFORM AN ENVIRONMENTAL IMPACT STUDY AND/OR TO FACILITATE AND ADMINISTER THE ENVIRONMENTAL REMEDIATION OF THE PROPERTY KNOWN AS 6286 ENGLE RD., PPN 342-09-011 AND TO TAKE ALL FURTHER NECESSARY ACTION TO REMEDIATE THE PROPERTY AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Resolution No. 7-2017, passed February 21, 2017 the Mayor applied for grant funds from the State of Ohio to environmentally remediate 6286 Engle Rd, PPN 342-09-011 (herein "the Property").

WHEREAS, the City has been awarded up to \$99,943.42 in grant funds from the State of Ohio to conduct an environmental impact study and to remediate environmental contamination on the Property;

WHEREAS, in order to environmentally remediate the Property, the State of Ohio requires the City to accept up to \$99,943.42 and pay up to the same amount, as necessary, to the contractors engaged directly in the environmental remediation of the Property and to facilitate the remediation of the Property.

WHEREAS, the owner of the Property, MNA Properties, Inc. by and through the Mary N. Abdallah Revocable Trust, Mary N. Abdallah Trustee (herein Owner) has agreed to indemnify and hold the City harmless for all sums in excess of \$99,943.42 that may be incurred or arise out of the environmental remediation of the Property;

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Brook Park, State of Ohio that:

SECTION 1: That the Mayor is authorized to accept funds from the State of Ohio up to \$99,943.42 and expend said funds in furtherance of the performance of an environmental impact study and/or remediation of the Property.

SECTION 2: The Mayor is authorized to enter into an indemnification and hold harmless agreement with the Owners of the Property to protect the City in the event the costs arising out of said environmental impact study and/or remediation exceed \$99,943.42.

SECTION 3: No tax or revenue funds of the City of Brook Park shall be encumbered or expended to facilitate the payment of costs or expense arising out of the performance of the environmental impact study and/or remediation exceed of the Property.

SECTION 4: It is found and determined that all formal actions of this Council concerning and relating to this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason that the City of Brook Park supports the environmental analysis and remediation of the Property; provided this Ordinance receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

Troyer
Mendini
Powers
Scott
Burgio
McDonnell

RESOLVED: August 15, 2017

Jim Costello
PRESIDENT OF COUNCIL

ATTEST: Michelle Blazak
CLERK OF COUNCIL

APPROVED: [Signature]
MAYOR

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

8/15/17
DATE

[Signature]
DIRECTOR OF LAW

P/C
CA
1st R
2nd R
3rd R
B/C

CERTIFICATE
Michelle Blazak, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 10094-2017 passed on the 15th day of AUGUST 2017 by said council.
Michelle Blazak
Clerk of Council

I, Michelle Blazak, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no newspaper of general circulation in the municipality and that publication of the foregoing ordinances/resolutions was made by posting true copies at six of the most public places in said municipality as determined by Ordinance No. 4838-1975: location City Hall 6161 Engle Road, Police Station 17401 Holland Road, #1 Fire Station 5590 Smith Road, #2 Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days, commencing August 15, 2017
Michelle Blazak
MICHELLE BLAZAK
Clerk of Council

CITY OF BROOK PARK, OHIO

RESOLUTION NO. _____

INTRODUCED BY: MAYOR GAMMELLA

A RESOLUTION
AUTHORIZING THE MAYOR TO
ENTER INTO A COOPERATIVE AGREEMENT WITH
THE CITY OF MIDDLEBURG HEIGHTS
FOR THE RESURFACING OF SHELDON ROAD
AND DECLARING AN EMERGENCY

WHEREAS, Brook Park and Middleburg Heights each desire to cooperate with the other pursuant to Section 715.02 of the Ohio Revised Code, to improve their respective communities, as well as bringing benefit to the traveling public in general by repairing and resurfacing the pavement on Sheldon Road from the approximately 780' east of the Eastland Road intersection to the Engle Road intersection; and

WHEREAS, Brook Park and Middleburg Heights wish to enter into this Cooperation Agreement in order to provide for the designation of the lead responsibility with respect to the Project, for the sharing of all Project costs, as set forth in the agreement, including but not limited to the design engineering, construction of improvements, construction supervision, contract administration and related items.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: That the Mayor is hereby authorized to enter into a Cooperative Agreement with the City of Middleburg Heights, a copy of which is attached hereto and marking "Exhibit A."

SECTION 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety of said City, and for the further reason that Council deems it necessary to proceed with cooperating with the City of Middleburg Heights on this project and that it is

necessary to execute the Agreement in a timely fashion; therefore, provided this Resolution receives the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately from and after its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: _____

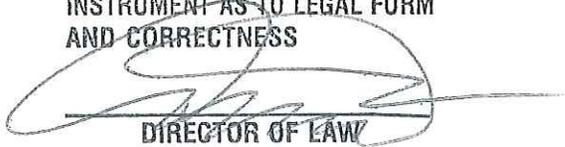
PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

APPROVED: _____
MAYOR

DATE

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS



DIRECTOR OF LAW

AGREEMENT
Between
THE CITY OF MIDDLEBURG HEIGHTS
And
THE CITY OF BROOK PARK

THIS AGREEMENT is entered into as of this ____ day of _____, 2019, between the City of Middleburg Heights ("Middleburg Heights"), a municipal corporation of the State of Ohio, through its Mayor ("Mayor") and, under the authority of Resolution No. 2019-____, passed by the Council of the City of Middleburg Heights on _____, 2019, and the City of Brook Park ("Brook Park"), a municipal corporation of the State of Ohio through its Mayor ("Mayor") and, under the authority of Resolution No. _____-2019.

RECITALS:

1. The County of Cuyahoga will provide funding assistance in the amount of 50% of the eligible construction costs up to a maximum of \$250,000.00.
2. Brook Park and Middleburg Heights desire to cooperate in the completion of the Project under the terms, conditions and provisions contained in this Agreement.

In consideration of the foregoing, the payments and the mutual promises contained in this Agreement, the parties agree as follows:

ARTICLE I. COST SHARING GENERALLY

- A. Engineering Design Costs
The Brook Park will pay fifty percent (50%) of the local share of the Engineering Design Costs and Middleburg Heights will pay the remaining fifty percent (50%) of those costs.
- B. Construction Costs
The Brook Park shall pay fifty percent (50%) of the local share of the Construction Costs and Middleburg Heights shall pay the remaining fifty percent (50%) of those costs. The final local share costs allocated to each municipality will be less payment of eligible costs from the County of Cuyahoga reimbursement.
- C. Construction Administration Costs
The Brook Park shall pay fifty percent (50%) of the local share of the Construction Administration Costs and Middleburg Heights shall pay the remaining fifty percent (50%) of those costs.

D. Discretionary Costs

If either city determines that additional work is required that is unique to either Brook Park or Middleburg Heights, that city shall be responsible for one hundred percent (100%) of the costs of that additional work.

ARTICLE II. SPECIFIC SERVICES

- A. The Brook Park Consulting City Engineer shall provide Engineering Design Services for the Project. Brook Park shall bid and award the construction contract for the Project in accordance with Brook Park's laws for competitive bidding. The Director of Public Service for the City of Middleburg Heights shall approve the construction contract specifications prior to Brook Park advertising the contract. Brook Park shall require the construction contractor to name Middleburg Heights as an additional insured on any insurance required in the construction contract specifications.
- B. The Middleburg Heights Consulting City Engineer shall provide Construction Administration Services for the Project based on approved engineering plans provided by Brook Park. Contractor's pay estimates will be processed by the Middleburg Heights Consulting City Engineer and submitted to Brook Park for payment. Project Inspector(s) will be employed by the Middleburg Heights Consulting City Engineer and Inspector Fees will be paid by the Contractor.

ARTICLE III. PROJECT COSTS

Estimated Project costs:

Engineering Design = \$54,372.60
Construction = \$865,000.00
Construction Administration = \$34,000.00.

The County of Cuyahoga (ID #1224) has agreed to contribute fifty percent (50%) of the eligible construction costs up to \$250,000.

ARTICLE IV. COVENANTS

- A. The City of Brook Park by its Mayor, having been duly authorized to enter into an Agreement of Cooperation with the County of Cuyahoga by Ordinance No. _____ adopted by Council of the City of Brook Park on the _____ day of _____, 20__.

- B. Said Agreement of Cooperation contained certain terms and conditions of which related to both Brook Park and Middleburg Heights.
- C. The City of Brook Park hereby agrees to the terms and conditions as stated in said Agreement of Cooperation as they relate to the City of Brook Park.
- D. The Middleburg Heights hereby agrees to the terms and conditions as stated in said Agreement of Cooperation as they relate to the City of Middleburg Heights.

ARTICLE V. TERM

This Agreement shall, unless extended by the parties or unless sooner canceled or terminated under the provisions of this Agreement expire upon completion of the Project.

ARTICLE VI. PAYMENTS

- A. Local Share
 Brook Park shall pay the Engineering Design Invoices, the Construction Contractor Invoices and the Construction Administration Invoices. Middleburg Heights will reimburse Brook Park for Middleburg Heights' share of the Costs. Middleburg Heights will pay Brook Park after Brook Park submits invoices and any documentation requested by Middleburg Heights to show that Brook Park has paid the Consultants and Contractors. Middleburg Heights will pay Brook Park within 60 days of the postmark date of an invoice from Brook Park. There will be a late penalty of ten percent (10%) of the outstanding amount for amounts not paid within 60 days.

ARTICLE VII. NOTICE AND PAYMENTS

All notices which may be proper or necessary to be served and payments to be made under this Agreement shall be sent by regular mail, postage prepaid, to the following addresses or to such other address as either party may later designate for such purpose. To Middleburg Heights: c/o Director of Public Service, 15700 Bagley Road, Middleburg Heights, Ohio 44130. To Brook Park: c/o Director of Public Service, 19065 Holland Road, Brook Park, Ohio 44142.

The following attached documents are incorporated with and made a part of this Agreement:

1. Middleburg Heights Ordinance No. _____
2. Brook Park Ordinance No. _____-20_____

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the date and year first above written.

Signed in the presence of:

(witness)

CITY OF BROOK PARK

By: _____
Michael D. Gammella, Mayor

Signed in the presence of:

(witness)

CITY OF MIDDLEBURGH HEIGHTS

By: _____
Matthew Castelli, Mayor

The legal form and correctness of the within instrument is approved.

By: _____

Director of Law, Middleburg Heights

The legal form and correctness of the within instrument is approved.

By: 
CAROL HORVATH

Director of Law, Brook Park