

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
TO BE HELD ON TUESDAY, APRIL 18, 2023
7:00 P.M.**

I. ROLL CALL OF MEMBERS:

II. PLEDGE OF ALLEGIANCE:

III. DISCUSSION:

1. AMERICAN LEGAL SUPPLEMENTAL PAGES \$3,966.60.- PER COUNCIL PRESIDENT VECCHIO.
2. AN ORDINANCE CREATING A LINE ITEM IN FUND #401 TO ADMINISTER AND FACILITATE THE RESERVING OF FUNDS FOR USE IN AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE ISSUES EVEN IF WE ARE NOT REQUIRED TO DO SO BY LAW, AND DECLARING AN EMERGENCY. Introduced by Council As A Whole and Mayor Orcutt.- PER COUNCIL PRESIDENT VECCHIO.
3. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE CITY OF MIDDLEBURG HEIGHTS AND TO ADVERTISE FOR BIDS, AND ENTER INTO A CONTRACT(S) WITH THE LOWEST AND/OR BEST BIDDER FOR THE SHELDON ROAD WATER MAIN REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.- PER COUNCIL PRESIDENT VECCHIO.
4. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ACCEPT THE CONTRACT TERMS AND CONDITIONS WITH WEB-BASED ARBITERPAY (ARBITERSPORTS LLC); AUTHORIZING AN ADMINISTRATOR FOR SAID PROGRAMS FOR THE PURPOSE OF SCHEDULING AND PAYING REFEREES FOR YOUTH SPORTS PROGRAMS; AUTHORIZING AN AMOUNT NOT TO EXCEED \$25,600.00 FOR SAID SERVICE FOR THE PERIOD COVERING THE BALANCE OF THE YEAR 2023, AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.- PER COUNCIL PRESIDENT VECCHIO.

IV. ADJOURNMENT

Posted: 4/14/23

CITY OF BROOK PARK, OHIO

ORDINANCE NO: _____

INTRODUCED BY: COUNCIL AS A WHOLE AND MAYOR ORCUTT

AN ORDINANCE

CREATING A LINE ITEM IN FUND #401 TO ADMINISTER AND FACILITATE THE RESERVING OF FUNDS FOR USE IN AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE ISSUES EVEN IF WE ARE NOT REQUIRED TO DO SO BY LAW, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Brook Park has many seniors; and

WHEREAS, the City of Brook Park has many older buildings; and

WHEREAS, Brook Park is not required, in some instances, to comply with all ADA rules in those older buildings; and

WHEREAS, Council and the Mayor would like to designate funds to comply with ADA mandates and go over the above those mandates in areas that the City is not required to do so.

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

SECTION 1: The Director of Finance is authorized and directed to designate a new line item in fund #401 reserving monies either appropriated from the City or from a grant or from a donation for the purpose of funding ADA compliance or ADA compliance where it is not required.

SECTION 2: Council will appropriate \$50,000.00 in capital fund #401, department 700, general government lands and buildings line item # 551, lands/building improvements, to be used exclusively for ADA compliance issues.

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 further reason that Council desires to create line item in fund #401, therefore, provided this ordinance receives the affirmative vote of at least (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: _____

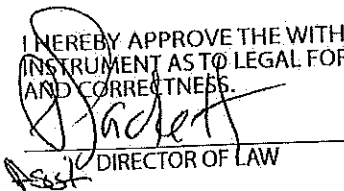
PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

APPROVED: _____
MAYOR

DATE

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



DIRECTOR OF LAW

CITY OF BROOK PARK, OHIO

ORDINANCE NO. _____

INTRODUCED BY: MAYOR ORCUTT

AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE
AGREEMENT WITH THE CITY OF MIDDLEBURG HEIGHTS
AND TO ADVERTISE FOR BIDS, AND ENTER INTO A
CONTRACT(S) WITH THE LOWEST AND/OR BEST BIDDER
FOR THE SHELDON ROAD WATER MAIN REPLACEMENT PROJECT,
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 public in general by replacing the water main along Sheldon Road between Engle Road and the I-71 overpass bridge; 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; and

WHEREAS, by and through Ordinance No. 11262-2022, passed June 7, 2022, the Mayor was authorized to have the Plans and Bid Documents prepared for the Sheldon Road Water Main Project.

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 marked as "Exhibit A."

SECTION 2: The Mayor is authorized to advertise for bids and enter into a contract with the lowest and/or best bidder for the Sheldon Road Water Main Replacement Project.

SECTION 3. The money needed for the aforesaid transaction shall be paid from the Sheldon Road Water Main Fund No. 548, theretofore appropriated or to be appropriated for said purpose.

SECTION 4: 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 5: This Ordinance 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 Ordinance 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: _____ APPROVED: _____
CLERK OF COUNCIL 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 _____, 2023, 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. 2023-____, passed by the Council of the City of Middleburg Heights on _____, 2023, 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 Ordinance No. _____ - 2023.

RECITALS:

1. The existing 12" Water Main along Sheldon Road between Engle Road and I-71 provides water service to both the City of Brook Park and the City of Middleburg Heights.
2. The existing 12" Water Main along Sheldon Road between Engle Road and I-71 is in a state of disrepair and needs to be replaced in advance of the Sheldon Road Resurfacing Project (PID 11312).
3. Brook Park and Middleburg Heights desire to cooperate in the completion of the Sheldon Road Water Main Replacement Project ("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 Brook Park Consulting City Engineer shall provide Construction Administration/Inspection Services for the Project based on approved engineering plans provided by Brook Park. Contractor's pay estimates will be processed by the Brook Park Consulting City Engineer and submitted to Brook Park for payment. Project Inspector(s) will be employed by the Brook Park Consulting City Engineer and Inspector Fees shall be considered a Project eligible cost, shared equally between the two Cities.

ARTICLE III. PROJECT COSTS

Estimated Project Costs:

Engineering Design	= \$48,691.76
Construction	= \$773,780.00
Construction Admin./Inspection	= \$30,198.96
Advertising/Testing/Misc.	= \$2,300.00
Estimated Total	= \$854,970.72

Any additional funds allocated to the Project by outside sources/parties for eligible project costs shall be shared equally between Brook Park and Middleburg Heights.

ARTICLE IV. COVENANTS

- A. The City of Brook Park hereby agrees to the terms and conditions as stated in this Agreement of Cooperation as they relate to the City of Brook Park.
- B. The Middleburg Heights hereby agrees to the terms and conditions as stated in this 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. Brook Park shall pay the Engineering Design Invoices, the Construction Contractor Invoices and the Construction Administration/Inspection 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 45 days of the postmark date of an invoice from Brook Park.

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 Resolution/Ordinance No. _____
2. Brook Park Ordinance No. _____ - 2023

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:

CITY OF BROOK PARK

By: _____
Edward Orcutt, Mayor

(witness)

Signed in the presence of:

CITY OF MIDDLEBURG HEIGHTS

By: _____
Matthew Castelli, Mayor

(witness)

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

By: _____
Santo Incorvaia
Director of Law, Middleburg Heights

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

By: _____
Carol Horvath
Director of Law, Brook Park

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CITY OF BROOK PARK, OHIO

ORDINANCE NO: _____

INTRODUCED BY: MAYOR ORCUTT

AN ORDINANCE

AUTHORIZING AND DIRECTING THE MAYOR TO ACCEPT THE CONTRACT TERMS
AND CONDITIONS WITH WEB-BASED ARBITERPAY (ARBITERSPORTS LLC);
AUTHORIZING AN ADMINISTRATOR FOR SAID PROGRAMS FOR THE PURPOSE OF
SCHEDULING AND PAYING REFEREES FOR YOUTH SPORTS PROGRAMS;
AUTHORIZING AN AMOUNT NOT TO EXCEED \$25,600.00 FOR SAID SERVICE
FOR THE PERIOD COVERING THE BALANCE OF THE YEAR 2023, AND
DECLARING AN EMERGENCY

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

SECTION 1: That the Mayor is hereby authorized and directed
to accept the contract terms and conditions with web-based
Arbiterpay (ArbiterSports LLC) and authorizing an Administrator for
said program for the purpose of scheduling and paying referees for
Youth Sports programs in the City of Brook Park. Said terms and
conditions being attached hereto, made a part hereof, and marked
for the purposes of identification as "Exhibit A".

SECTION 2: The money needed for the aforesaid transaction
shall be paid from the fund #343; provided that, in no event shall
the total amount to be paid under said contract exceed \$25,600.00.

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 that Council deems it necessary for the Mayor to enter into said contract with undue delay; 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

DATE

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS.
Asst. [Signature]
DIRECTOR OF LAW

ARBITERPAY SUBSCRIPTION AND ARBITERPAY USER AGREEMENT

This ArbiterPay Subscription Agreement is entered into by and between your business, school, group or other entity ("*Payor*") and ArbiterSports, LLC ("*ArbiterSports*"). This Subscription Agreement is subject to the Terms and Conditions of ArbiterPay Subscription and the ArbiterPay User Agreement ("*Terms and Conditions*") located on the ArbiterSports Website ("*Website*") at <https://www.arbiterpay.com/s/Payor-Agreement-20210510.pdf> which Terms and Conditions are incorporated herein in their entirety and may be updated and revised from time to time. This Subscription Agreement and the Terms and Conditions are collectively referred to as the "*User Agreement*."

AGREEMENT

1. ArbiterPay Subscription. Payor hereby subscribes to ArbiterSports' automated online payment processing system known as "*ArbiterPay*." ArbiterSports agrees to provide ArbiterPay services to Payor in accordance with the Terms and Conditions.
2. Cancellation. Payor's subscription is cancellable at any time, without penalty, upon written notice to ArbiterSports. Following such cancellation, ArbiterSports will return any balance in Payor's ArbiterPay account within ten (10) days of receiving notice of cancellation in accordance with the Terms and Conditions.
3. Location of Funds. All funds deposited in Payor's ArbiterPay account will be held in a trust account ("*Trust Account*") deposited in FDIC-insured financial institutions having at least \$1 billion in assets, including JP Morgan Chase Bank, NA or one or more correspondent banks ("*Banks*"), and managed by Cache Valley Bank as trustee and paying agent ("*Trustee*") as described in the Terms and Conditions. If required by law, and upon written request to ArbiterSports, funds deposited in Payor's ArbiterPay account can be allocated to a Bank having a presence within Payor's state of organization.
4. Depositing Funds. Payor's funds may be deposited into the Trust Account by (i) requesting an ACH debit through the Website into the Trust Account; (ii) electronic transfer (for example, an ACH transfer or a wire transfer) from Payor's bank account into the Trust Account; or (iii) providing a check to the Trustee in the manner described on the Website. Payor understands that it is Payor's responsibility to monitor and maintain funds in Payor's ArbiterPay account. ArbiterSports will not authorize payments in excess of the positive balance of Payor's ArbiterPay account. Payor's ArbiterPay account funds will be included by the Trustee in one or more accounts with the Banks together with funds submitted by other ArbiterPay payors, but all such payors' funds will be separately accounted for by the Trustee and ArbiterSports. Payor's funds will be held in the Trust Account until such time as Payor directs ArbiterSports through the Website to make payments to specific payees who are registered users of ArbiterPay ("*payees*") and such payments are requested by and distributed to the respective payee.
5. FDIC Insurance. All funds in Payor's ArbiterPay account shall be deposited in accounts that are FDIC-insured to the extent that the amount of Payor's funds is within applicable FDIC limitations. Payor has the sole responsibility to ensure that the funds in Payor's ArbiterPay

account, when combined with Payor's other accounts, funds or investments with such financial institutions do not exceed the limits permitted by the FDIC for its insurance coverage. Payor acknowledges and agrees that it will not receive interest or other earnings on the funds in the Trust Account. In addition to any other fees paid by Payor in connection with the ArbiterPay services, Payor assigns to ArbiterSports any interest or earnings that may accrue on funds held in the Trust Account.

6. Payment Instructions. Payor will provide online payment instructions via the Website, and ArbiterSports' processing system will then provide corresponding electronic payment instructions to the Trustee. Payor may only initiate payments through the Website. Payor authorizes the Banks and the Trustee to follow the instructions of ArbiterSports (whether electronic, written or oral) without contacting Payor directly or requiring further instructions from Payor. Payor has the sole responsibility (a) to obtain each payee's user name and ArbiterPay account number and (b) to keep such information and instructions current and accurate. Once Payor has provided payment authorization, such payment may not be able to be cancelled.

7. Unauthorized Transactions. Payor is responsible to maintain the confidentiality of its username and password. Payor should immediately notify ArbiterSports if Payor believes (i) there has been an unauthorized transaction or unauthorized access to Payor's account; (ii) Payor's password has been compromised; (iii) Payor has made an error in information provided on the Website; (iv) there is an error with respect to Payor's account information or history; or (v) Payor needs more information about a transaction linked to its account. Payor is responsible for all transactions conducted on its account using its username and password. Neither ArbiterSports nor the Trustee will reimburse Payor for any unauthorized transactions which occur prior to the time ArbiterSports receives notification from Payor of the unauthorized activity.

8. Account Statements. Payor may view its transaction history and account information by logging onto the Website. Payor will not receive account statements by mail or email. Payor agrees to diligently monitor and review its transactions through the Website.

9. Fees. Currently, there is no enrollment cost or monthly cost to maintain Payor's account. However, ArbiterSports does charge certain fees to cover transactions and inactivity associated with Payor's ArbiterPay account. You can request a current schedule of fees charged by contacting ArbiterSports at www.arbiterpay.com. Payor is solely responsible for any additional fees charged directly by Payor's financial institution associated with ACH debits and credits initiated through the Website. ArbiterSports reserves the right to change its fee structure upon thirty (30) days' prior notice to Payor which notification may be provided as a notification in Payor's ArbiterPay account, by email or by posting on the Website. ArbiterSports is solely responsible to the Trustee's compensation and Payor shall not have any liability to the Trustee for compensation for its services.

10. Taxes. Payor has the sole responsibility (a) to determine what, if any, taxes (including, but not limited to any state withholding taxes) apply to payments made or received and (b) to collect, report and remit the correct tax to the appropriate tax authority with respect to such payments. Payor acknowledges that ArbiterSports is not responsible for collecting, reporting or remitting any taxes, garnishments, levies, or any other third-party collections or payments with respect to any


payments. Payor may elect on the Website to have ArbiterSports issue 1099 tax forms to payees on Payor's behalf; however, it is Payor's responsibility to issue any required state withholding tax reporting forms. ArbiterSports is not responsible for reporting any state withholding tax information on any 1099 tax form (including boxes 16-18 of IRS form 1099-NEC). Payor agrees and acknowledges that any 1099 tax forms issued to payees on Payor's behalf will be issued electronically.

11. Duties of ArbiterSports and Trustee. ArbiterSports will be responsible for ensuring compliance with all applicable federal and state laws relating to (i) the opening and maintenance of accounts for ArbiterPay payors and payees and (ii) the confidentiality of ArbiterPay payors' and payees' information. The Trustee will be responsible for ensuring compliance with all applicable federal and state laws relating to (i) the opening and maintenance of the Trust Account; (ii) the acceptance of funds deposited by each ArbiterPay payor into the Trust Account; (iii) the confidentiality of Trustee customer information; (iv) the transmitting of payments; and (v) all other functions related to the Trustee's responsibilities under the Terms and Conditions.

12. Limitation on Duties of ArbiterSports. ArbiterSports' duties under this Agreement are limited to (i) providing software, data management and website services; (ii) acting as Payor's agent as described in the Terms and Conditions; and (iii) interacting with and instructing the Trustee as described in the Terms and Conditions. ArbiterSports will not receive, hold, own or transmit any funds whatsoever and will not provide any financial or banking services. No provision of the User Agreement should be read or interpreted to authorize or require ArbiterSports to perform any action that would cause ArbiterSports to be subject to, or in violation of, any federal, state or local law or regulation applicable to money transmitters, banks or other financial institutions or financial service providers.

13. Complete Agreement. This Subscription Agreement, together with the Terms and Conditions, set forth the entire understanding between Payor on the one hand and ArbiterSports and the Trustee on the other hand with respect to the Website, Payor's ArbiterPay account and the ArbiterPay services. In the event of any conflict between this Subscription Agreement and the Terms and Conditions, the Terms and Conditions shall control.

14. Authorization. The individual executing this Subscription Agreement on behalf of Payor hereby represents that he or she has the authority to bind Payor and acknowledges that he or she has read and agrees to the Terms and Conditions on behalf of Payor.

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

Asra DIRECTOR OF LAW