

CITY OF BROOK PARK, OHIO

ORDINANCE NO. 11329-2023

INTRODUCED BY: MAYOR ORCUTT

4-18-23 Finance  
Prior 4-18-23  
Clerk  
Clerk  
Clerk

**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

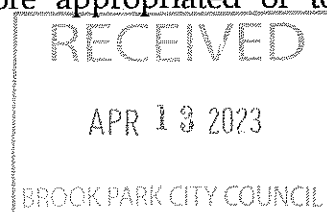
WHEREAS, by and through Ordinance No. 11262-2022, passed June 7, 2022, the Mayor was authorized to have the Plans and Bid Documents prepared for the Sheldon Road Water Main Project.

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.

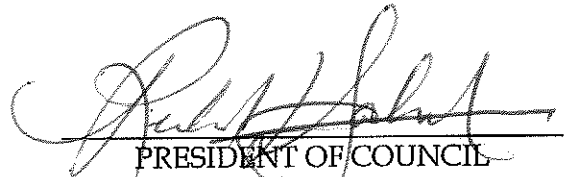
**SECTION 3.** The money needed for the aforesaid transaction shall be paid from the Sheldon Road Water Main Fund No. 548, theretofore appropriated or to be appropriated for said purpose.



**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: April 18, 2023

  
PRESIDENT OF COUNCIL

ATTEST: Carol Johnson  
CLERK OF COUNCIL

APPROVED: Ed A. Troyer  
MAYOR  
4-18-23  
DATE

**CERTIFICATE**

Carol Johnson, 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. 11329-2023 passed on the 18 day of April 2023 by said council.

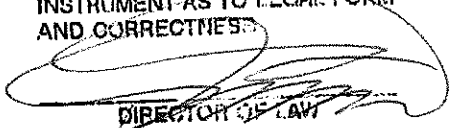
Carol Johnson  
Clerk of Council

I, Carol Johnson, 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 five 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, #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 April 19, 2023  
Carol Johnson  
CAROL JOHNSON  
Clerk of Council

	Yea	Nay
Troyer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mencini	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Coyne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Poindexter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Salvatore	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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.	= <u>\$2,300.00</u>
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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