

City of Middleburg Heights, Ohio

Ordinance No. 2022-23

Introduced by: Mr. Bortolotto, Mr. Meany, and Mr. Grech

AN ORDINANCE REMOVING SPECIAL ASSESSMENTS PREVIOUSLY LEVIED FOR CERTAIN SPECIAL ENERGY IMPROVEMENT PROJECTS IN THE CITY OF MIDDLEBURG HEIGHTS, OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY DISTRICT AND BAGLEY AHI, LLC, AND DECLARING AN EMERGENCY

WHEREAS, on May 7, 2020, the Council of the City of Middleburg Heights (the "City") adopted Ordinance No. 2020-41 approving a Petition to Add Territory to the Northeast Ohio Advanced Energy District and for Special Energy Improvement Project (the "Petition") submitted by Bagley AHI, LLC (the "Owner"); and

WHEREAS, on May 7, 2020, this Council adopted Ordinance No. 2020-42 and Ordinance No. 2020-43 and determined to proceed with the special energy improvement projects described in the Petition (the "Project") and levied special assessments for the purpose of paying costs of acquiring, constructing, and improving the Project (the "Special Assessments"), all as requested in and described in the Petition; and

WHEREAS, as requested in the Petition, the Special Assessments were levied against and allocated among two parcels of real property, as of the date of the Petition bearing Cuyahoga County Fiscal Officer parcel identification numbers 373-01-039 (the "Retail Parcel") and 373-01-040 (the "Hotel Parcel"); and

WHEREAS, under Ordinance No. 2020-43 this Council further approved and authorized the execution and delivery of an Energy Project Cooperative Agreement (the "Energy Project Cooperative Agreement") between the Owner, Twain Funding 1 LLC (as the assignee of Twain Community Partners III LLC, "Twain"), the City, and the Northeast Ohio Advanced Energy District (the "AED") and a Special Assessment Agreement (the "Special Assessment Agreement") between the County Treasurer of Cuyahoga County, Ohio, the Owner, Twain, the City, and the AED with respect to the financing of the Project with the Special Assessments; and

WHEREAS, as provided in the Energy Project Cooperative Agreement, as of February 8, 2022, the Owner has prepaid to Twain all amounts outstanding with respect to the Retail Parcel, and the Owner and Twain have notified the City and the AED, and the AED has notified the City, that all installments of the Special Assessments with respect to the Retail Parcel to be due and collected after February 8, 2022 should be reduced to \$0.00 and removed from the Retail Parcel; and

WHEREAS, this legislation is to reduce the amount of the Special Assessments previously levied on the Retail Parcel to \$0.00 and to cause the Cuyahoga County Fiscal Officer to remove the special assessments from the tax bills for the Retail Parcel.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Middleburg Heights, State of Ohio:

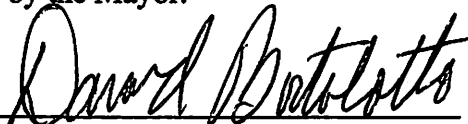
SECTION 1. Each capitalized term not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Energy Project Cooperative Agreement.

SECTION 2. Based solely upon the notifications of the Owner, Twain, and the AED that the portion of the Project Advance associated with the Retail Parcel has been prepaid in full and on their request that all Special Assessments previously levied on the Retail Parcel be reduced to \$0.00 and removed from the Retail Parcel, the aggregate Special Assessments previously levied by this Council on the Retail Parcel and certified to the Cuyahoga County Fiscal Officer for collection are hereby reduced to \$0.00, and the Clerk of this Council and the Finance Director of the City are hereby authorized to take any action necessary to cause the Special Assessments previously levied on the Retail Parcel to be reduced to \$0.00 and removed from the Retail Parcel in the records of the Cuyahoga County Fiscal Officer.

SECTION 4. In compliance with Ohio Revised Code Section 319.61, the Clerk of the Council is directed to deliver a certified copy of this Ordinance to the Cuyahoga County Fiscal Officer within 20 days after its passage.

SECTION 5. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City and for the further reason that this Ordinance is required to be immediately effective in order to certify the appropriate reduction in the Special Assessments on the Retail Parcel to the Cuyahoga County Fiscal Officer in order to effect such reduction prior to the preparation of real property tax bills for the second-half of tax year 2021, collection 2022; wherefore this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: 3/8, 2022


PRESIDENT OF COUNCIL

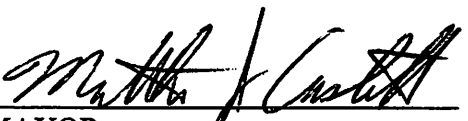
ATTEST:


CLERK OF COUNCIL

PRESENTED TO MAYOR 3/9, 2022

APPROVED ON: 3-9, 2022

	YEAS	NAYS
BORTOLOTTO	<u>X</u>	_____
ALI	<u>X</u>	_____
SAGE	<u>X</u>	_____
MEANY	<u>X</u>	_____
MCGREGOR	<u>X</u>	_____
FERENCE	<u>X</u>	_____
GRECH	<u>X</u>	_____


MAYOR

I, Mary Ann Meola Clerk of
the Council of the City of Middleburg Hts., Ohio,
hereby certify that Ord. 2022-23
adopted by the Council of the City of Middleburg
Hts., on 3/8/22 was posted for a period
of fifteen days, beginning 3/9/22
and remained so posted for fifteen days at the two
posting places as designated by Charter.

Mary Ann Meola
Clerk

CERTIFICATE

I, Mary Ann Meola Clerk of Council of the City of Middleburg Heights, Ohio, do
hereby certify that the foregoing is a true and accurate copy of Ord. 2022-23
passed on the 8th day of March 2022 by said Council.

Mary Ann Meola
Clerk of Council

RECEIPT OF FISCAL OFFICER FOR
LEGISLATION REMOVING SPECIAL ASSESSMENTS PREVIOUSLY LEVIED FOR
CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF MIDDLEBURG HEIGHTS,
OHIO IN COOPERATION WITH THE NORTHEAST OHIO ADVANCED ENERGY
DISTRICT

I, Michael Chambers, the duly appointed, qualified, and acting Fiscal Officer in and for Cuyahoga County, Ohio hereby certify that a certified copy of Ordinance No. _____ duly passed by the Council of the City of Middleburg Heights, Ohio on _____, 2022, reducing special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Middleburg Heights, Ohio in cooperation with the Northeast Ohio Advanced Energy District to \$0.00, was filed in this office on _____, 2022.

WITNESS my hand and official seal at Cleveland, Ohio on _____, 2022.

[SEAL]

Fiscal Officer
Cuyahoga County, Ohio