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City of Middleburg Heights, Ohio

Ordinance No. 2023-92

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

AN ORDINANCE
DECLARING THE IMPROVEMENT TO CERTAIN PARCELS OF REAL PROPERTY WITHIN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC 5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED; SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS DIRECTLY BENEFITING THE PARCELS; AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code ("*ORC*") 5709.40, 5709.42, and 5709.43 (collectively, the "*TIF Act*") authorize this Council, by ordinance, to declare the improvement to parcels of real property located within the City to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, establish a municipal public improvement tax increment equivalent fund for the deposit of the those service payments, and specify the purposes for which money in that fund will be expended; and

WHEREAS, the City desires to implement a tax increment financing program on the Parcels (as defined in Section 1) pursuant to the TIF Act to enable the City to make public infrastructure improvements that will directly benefit the Parcels; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Board of Education of the Berea City School District (the "School District") and Polaris Joint Vocational School District ("PJVSD") in accordance with and within the time periods prescribed in ORC 5709.40 and 5709.83; and

WHEREAS, an emergency exists in the usual daily operations of the City, that emergency being related to the need to pass this Ordinance as quickly as possible, which will result in the investment in public infrastructure and creation and retention of jobs, all of which improve the health, safety and welfare of the residents of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, COUNTY OF CUYAHOGA, STATE OF OHIO, THAT:

Section 1: Parcels. The real property subject to this Ordinance is identified and depicted on Exhibit A (as currently or subsequently configured, the "*Parcels*", with each individual parcel a "*Parcel*").

Section 2: Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit B (the "*Public Infrastructure Improvements*") and any other public infrastructure improvements hereafter designated by ordinance as public infrastructure improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

Section 3: Authorization of Tax Exemption. This Council hereby finds and determines that 100% of the increase in assessed value of each Parcel subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "*Improvement*" as defined in ORC 5709.40(A)) is hereby declared to be a public purpose and will be exempt from taxation in accordance with ORC 5709.40(B) for a period commencing for each Parcel (separate exemption periods for each Parcel) with the first tax year that begins after the effective date of this Ordinance and in which an Improvement attributable to a new structure on that Parcel first appears on the tax list and duplicate were it not for the exemption granted by this Ordinance and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Act. The exemption provided by this Ordinance is subordinate to any exemption for a Parcel granted pursuant to ORC 3735.65 to 3735.70.

Section 4: Service Payments. As provided in ORC 5709.42, the owner of each Parcel is hereby required to make service payments in lieu of taxes with respect to the Improvement allocable to each Parcel to the Cuyahoga County Treasurer (the "County Treasurer") on or before the final dates for payment of real property taxes. The service payments in lieu of taxes will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and collected against that Improvement if it were not exempt from taxation pursuant to Section 3 of this Ordinance, including any penalties and interest (collectively, the "*Service Payments*"). The Service Payments, and any other payments with respect to each Improvement that are received in connection with the reduction required by ORC 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "*Property Tax Rollback Payments*"), shall be deposited and distributed in accordance with Section 6.

Section 5: TIF Fund. This Council establishes, pursuant to and in accordance with the provisions of ORC 5709.43, the Serpentini Tax Increment Equivalent Fund (the "*TIF Fund*"), into which the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels will be deposited. The TIF Fund will be maintained in the custody of the City. The City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF Act and this Ordinance (as it may be amended). The TIF Fund will remain in existence so long as the Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with ORC 5709.43.

Section 6: Distributions. Pursuant to the TIF Act, the County Treasurer is requested to distribute the Service Payments and Property Tax Rollback Payments as follows:

(i) To each of the School District and the PJVSD, an amount equal to the amount the school district would otherwise receive as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to each Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance.

(ii) To the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any notes or bonds issued to pay or reimburse finance costs or costs of those Public Infrastructure Improvements and any other lawful purpose.

All distributions required under this Section are requested to be made at the same time and in the same manner as real property tax distributions. The City shall make any distributions to the extent not made by the County Treasurer.

Section 7: Further Authorizations. This Council hereby authorizes and directs the Mayor, the Law Director, the Director of Finance, Director of Economic Development or other appropriate officers of the City to deliver a copy of this Ordinance to the Ohio Department of Development within fifteen days after its effective date, in accordance with ORC 5709.40(I), and to make such arrangements as are necessary and proper for collection of the Service Payments. This Council further authorizes the Mayor, the Law Director, the Director of Finance, Director of Economic Development 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 8: Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations 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 the law including ORC 121.22.

Section 9: Effective Date. This Ordinance is hereby declared to be an emergency measure for the reasons stated in the preamble hereto. Wherefore, provided this Ordinance received the affirmative vote of at least two-thirds (2/3) of the members of Council it shall take effect and be in force immediately upon its passage and approval by the Mayor.

Passed: 11\14\23

President of Council

Attest: M Neola
Clerk of Council

Approved On: _____

Presented to Mayor: 11\15\23

Mayor

	Yea	Nay
Bortolotto	X	
Ali	X	
Sage	X	
Meany	X	
McGregor	X	
Ference	X	
Grech	ABSENT	

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Ord. 2023-92 adopted by the Council of the City of Middleburg Hts., on 11/14/23 was posted for a period of fifteen days, beginning 11/20/23 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. 2023-92 passed on the 14th day of November 20 23 by said Council.

Mary Ann Meola
Clerk of Council

EXHIBIT A
IDENTIFICATION AND MAP OF THE PARCELS

The area denoted on the following map specifically identifies and depicts the Parcels (tax parcel number 371-17-055 as of November 1, 2023) and constitutes part of this Exhibit A.

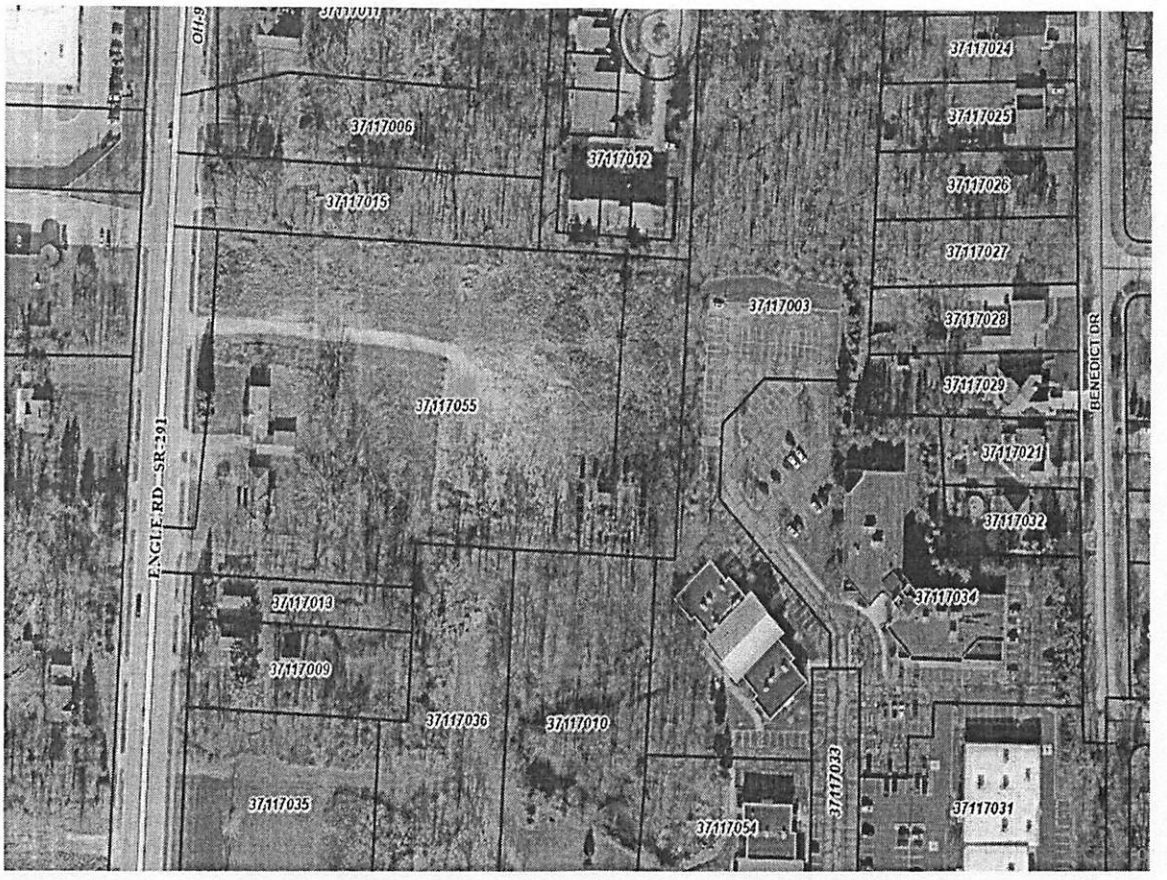

EXHIBIT B
PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any "public infrastructure improvement" defined under ORC 5709.40(A)(8) and that directly benefits the Parcels and specifically include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC 133.15(B)):

- **Roadways**. Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of roads, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.

- **Water/Sewer**. Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto, including, but not limited to those associated with improvements described in "Roadways" above.

- **Environmental/Health**. Implementation of environmental remediation measures necessary to enable the construction of the private improvements on the Parcels or the Public Infrastructure Improvements, and the construction of public health facilities.

- **Utilities**. Construction, reconstruction, burial or installation of gas, electric and communication service facilities and all appurtenances thereto, including, but not limited to those associated with improvements described in "Roadways" above.

- **Stormwater**. Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including the payment and reimbursement for such projects and facilities on private property when determined to be necessary for public health, safety and welfare.

- **Demolition**. Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare.

- **Parks**. Construction or reconstruction of one or more public parks and park or recreational facilities, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto.

- **Streetscape/Landscape**. Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including,

but not limited to streetscape improvements in conjunction with and along the roadway improvements described in "Roadways" above.

- **Real Estate**. Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing improvements or (b) in aid of industry, commerce, distribution or research.

- **Professional Services**. Engineering, consulting, legal, administrative, and other professional services associated with the planning, design, acquisition, construction and installation of the foregoing improvements and real estate.