

**ORDINANCE NO. 2019-40** (previously numbered 2018-63 / amended 7/23/2019)

**INTRODUCED BY: MAYOR MICHAEL DYLAN BRENNAN**

**AN AMENDED ORDINANCE AUTHORIZING THE RELEASE OF THE LIEN OF SPECIAL ASSESSMENTS RELATING TO CERTAIN CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY SPECIAL ASSESSMENT/TAX INCREMENT REVENUE BONDS, SERIES 2001 (UNIVERSITY HEIGHTS, OHIO – PUBLIC PARKING GARAGE PROJECT) AND CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY SUBORDINATE TAX INCREMENT REVENUE BONDS, SERIES 2001B (UNIVERSITY HEIGHTS, OHIO – PUBLIC PARKING GARAGE PROJECT), AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of University Heights, as of December 1, 2001, entered into a certain Cooperative Agreement by and among the City, the Cleveland-Cuyahoga County Port Authority and Starwood Wasserman University Heights Holding LLC, pursuant to which the Cleveland-Cuyahoga County Port Authority would issue bonds for the construction of a public parking garage and other related improvements for the development known as University Square Commons Shopping Center (“University Square”);

**WHEREAS**, the debt service to pay the bonds was to be generated from payments made by the owners of certain parcels in lieu of real estate taxes generated by those parcels comprising the University Square development, and if the payment proved to be insufficient to repay the debt service on the bonds, the debt service would be secured by special assessments on said parcels;

**WHEREAS**, the special assessments were for the security of the bondholders in the event the owner of certain parcels failed to make the required debt service payments; and

**WHEREAS**, over time, vacancies at University Square resulted in revenue shortfalls, default on debt service payments, and the certification of special assessments on certain parcels comprising the University Square development;

**WHEREAS**, in 2015, UMB Bank, N.A., as Trustee for the bondholders, filed a foreclosure action against the owners of the University Square parcels and, as a result of said litigation, acquired title to the University Square parcels;

**WHEREAS**, since acquisition of the University Square parcels in 2015, UMB Bank, N.A. and the institutional investor owing the majority of the outstanding bonds have been attempting to market the University Square properties for new development, have shown the properties to numerous potential developers, and have made numerous attempts to spur development at University Square;

**WHEREAS**, UMB Bank, N.A. have been unable to sell or otherwise market the University Square parcels due in large part to existing special assessment liens on the University Square parcels in the approximate amount of over approximately Forty Million Dollars;

**WHEREAS**, the special assessments, which were designed to secure the financial interests of the bondholders, and which represent amounts that are owed to the bondholders as debt service on their investment in University Square, now serve as nothing more than an impediment to the bondholders’ attempts to develop University Square;

**WHEREAS**, the City of University Heights wishes to take affirmative steps to promote the re-development of University Square, and to return the University Square parcels back to productive use;

**WHEREAS**, the re-development of University Square will greatly enhance the quality of life for University Heights residents, by causing the University Heights parcels to return to productive use, and by creating economic development in a district that sees high volume traffic and that is critical to the City's long-term success; and

**WHEREAS**, UMB Bank, N.A. and the bondholders have asked for the release of the lien of special assessments securing the various bonds;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF UNIVERSITY HEIGHTS, CUYAHOGA COUNTY, OHIO, THAT:**

**Section 1:** The City hereby declares that the special assessments, as more fully detailed and described in *Revised* Exhibit A hereto, which in part secure certain Cleveland-Cuyahoga County Port Authority Special Assessment/Tax Increment Revenue Bonds, Series 2001 (University Heights, Ohio – Public Parking Garage Project) and Cleveland-Cuyahoga County Port Authority Subordinate Tax Increment Revenue Bonds, Series 2001B (University Heights, Ohio – Public Parking Garage Project), shall be released, and that the Mayor is authorized to take any and all further steps necessary to accomplish the release of the foregoing. The City hereby requests the County of Cuyahoga, Ohio and the County Auditor to take any and all steps to release the foregoing special assessments from the applicable parcels and to remove any liens thereby. Exhibit A is incorporated herein by reference as if fully rewritten.

**Section 2:** The City hereby requests the County of Cuyahoga, Ohio and the Cuyahoga County Fiscal Officer to take any and all steps to release the foregoing special assessments from the applicable parcels and to remove any liens thereby.

**Section 3:** The Council hereby finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting of this Council, that all deliberations of this Council and of its committees, if any, which results in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements, including Section 121.22 of the ORC.

**Section 4:** This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, so that any impediment to the marketing and re-development of University Square be eliminated as quickly as possible; wherefore, this resolution shall be in full force and effect from and immediately after its adoption and approval by the Mayor.

CITY OF UNIVERSITY HEIGHTS, OHIO

  
MICHAEL DYLAN BRENNAN, MAYOR

PASSED: July 23, 2019

ATTEST:  
  
KELLY M. THOMAS, CLERK OF COUNCIL


APPROVED AS TO FORM:  
  
LUKE F. MCCONVILLE, LAW DIRECTOR

EXHIBIT A

Parcel N.	<u>721-01-001</u>	<u>721-01-003</u>	<u>721-01-147</u>
M128598 Sewer Maintenance	\$ 77,125.76	4,855.96	
M208500 Street Lights	\$ 5,444.49		1,663.35
M268600 Tree Maintenance	\$ 6,222.23		1,901.03
M928596 17-TIF	\$ 4,666,200.00		
M928596A TIF	\$ 12,693,889.95		
M928596B TIF	\$ 3,821,230.85		
M928596C TIF	\$ 6,612,027.22		
M928596D TIF	\$ 5,886,776.38		
M928596F TIF	\$ 5,241,075.84		