

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2023-03 Passed January 3, 20 23

AN ORDINANCE DECLARING IMPROVEMENTS TO PARCELS OF REAL PROPERTY LOCATED IN THE CITY OF BROOKVILLE, OHIO, HARPER CREEK INCENTIVE DISTRICT TIF SITE, TO BE A PUBLIC PURPOSE UNDER SECTION 5709.40(C) OF THE OHIO REVISED CODE, EXEMPTING SUCH IMPROVEMENTS FROM REAL PROPERTY TAXATION, AUTHORIZING THE EXECUTION OF A SCHOOL AGREEMENT AND A SERVICE AGREEMENT AND SUCH OTHER DOCUMENTS AS MAY BE NECESSARY, AND ESTABLISHING A TAX INCREMENT EQUIVALENT FUND.

WHEREAS, Section 5709.40 et seq. of the Ohio Revised Code (the "TIF Authorizing Statutes") authorizes municipal corporations to participate in a financing technique commonly known as a tax increment financing; and

WHEREAS, this City Council ("Council") of the City of Brookville, Ohio (the "City"), wishes to use the authority granted pursuant to the TIF Authorizing Statutes in connection with exempting from real property taxation certain improvements in the City and constructing certain public infrastructure improvements in the City which will benefit the improvements in order to meet the public health, safety, welfare, and convenience needs of the area, including future development and traffic capacity; and

WHEREAS, this Council has determined to grant a property tax exemption for the parcels comprising the area where such improvements are to be located (the "Harper Creek Incentive District TIF Site"); and

WHEREAS, the boundary of the Harper Creek Incentive District TIF Site shall be coextensive with the boundary of, and shall include, the parcels of real property specifically identified and depicted in Exhibit A attached hereto, which parcels are not more than 300 acres and are enclosed by a continuous boundary; and

WHEREAS, the City Engineer has certified that the public infrastructure serving the district is inadequate to meet the development needs of the district; and

WHEREAS, the population of the City is less than 25,000; and

WHEREAS, pursuant to Sections 5709.40 and 5709.83 of the Ohio Revised Code, notice has been given to the Brookville Local School District (the "School District") by a letter dated October 6, 2022, of the consideration of this Ordinance granting a tax increment real property tax exemption, which exemption was approved by the School Board by Resolution 22-058 on October 17, 2022, and this Council will compensate the School District pursuant to a School Compensation Agreement to be entered into by and between the City and the School District; and

WHEREAS, pursuant to Sections 5709.40 and 5709.83 of the Ohio Revised Code, notice has been given to the Miami Valley Career Technology Center School District (the "Miami Valley CTC"), in a letter dated October 17, 2022, of the consideration of this Ordinance granting a tax increment real property tax exemption, which exemption was approved by the Miami Valley CTC School Board by Resolution 46-22 on November 8, 2022, and this Council will compensate the Miami Valley CTC School District pursuant to a School Compensation Agreement to be entered into by and between the City and Miami Valley CTC School District; and

WHEREAS, pursuant to Sections 5709.40 of the Ohio Revised Code, notice has been given to Montgomery County (the "County") by a letter dated October 17, 2022, of the consideration of this Ordinance granting a tax increment real property tax exemption.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brookville, Montgomery County, State of Ohio, thereto concurring that:

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SECTION I: Pursuant to Section 5709.40(C) of the Ohio Revised Code, this Council hereby creates the "Harper Creek Incentive District TIF Site", the boundaries of which shall be coextensive with the boundaries of the parcels specifically identified and depicted in Exhibit A attached hereto, which parcels are located in the incorporated area of the City.

SECTION II: This Council hereby finds and declares that certain public improvements (the "Public Improvements") in the City, to wit: the planning, design and construction of public street improvements including pavements, walkways, traffic control devices and alterations to existing streets, including improvements to Upper Lewisburg-Salem Road and Albert Road, and construction of new streets; the planning, design and construction of public parking facilities; the planning, design and construction of utilities including but not limited to water, sanitary sewers, gas mains, electric facilities, streetlights, communication facilities, storm water sewers and detention facilities; the creation or enhancement of buffer areas and open areas necessary for ensuring the compatibility of adjacent land uses; the creation and/or enhancement of public service facilities, including police and fire stations; the acquisition, construction or enhancement of recreation facilities, including public parks and community centers; the installation of landscaping, retaining walls, and public amenities; demolition of existing buildings; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; and the purchase of property rights of way and easements or other rights in property necessary for the completion of the Public Improvements listed above, are a public purpose and that those Public Improvements are necessary for the further development of the parcels of land described in Exhibit A attached to this Ordinance (such parcels are hereinafter collectively referred to as the "Harper Creek Incentive District TIF Site"), which parcels are located in the incorporated area of the City, and for the creation of jobs, increasing property values, and the provision of adequate public services in the City. The Public Improvements will not include housing renovations.

SECTION III: Pursuant to Section 5709.40(C) of the Ohio Revised Code, further improvements to the parcels in the Harper Creek Incentive District TIF Site occurring after the date of this Ordinance are hereby declared to be a public purpose and are exempt from real property taxation commencing on the first day of the tax year in which an improvement with aggregate value in excess of \$250,000 resulting from new construction first appears on the tax list and duplicate of real and public utility property and that begins after December 31, 2022, and ending on the earlier of (1) thirty (30) years from the date the exemption commences or (2) the date on which the Public Improvements as described in Section II above that will benefit the Harper Creek Incentive District TIF Site are paid in full from the Tax Increment Equivalent Fund, as defined in Section VII hereof. It is hereby determined that (i) a portion of the Improvements shall be exempt from real property taxation, (ii) such portion shall be one hundred percent (100%) of the assessed value of the Improvements, and (iii) the Public Improvements directly benefit, or once made will benefit, the Harper Incentive District TIF Site.

SECTION IV: Pursuant to Section 5709.42 of the Ohio Revised Code, the owner or the owners of the Improvements shall be required to make annual service payments in lieu of taxes (the "Service Payments") to the Montgomery County Treasurer on or before the final dates for payment of real property taxes. This Council hereby expresses its intention and authorizes the City Manager or any City Official to enter into such agreements as may be necessary and appropriate to assure the payment of such Service Payments, including a Service Agreement by and between the City and the owners of property within the Harper Creek Incentive District TIF Site.

SECTION V: A portion of the Service Payments shall be paid to the Brookville Local School District and Miami Valley Career Technology Center School District in accordance with (i) the terms of School Compensation Agreements with Brookville Local Schools and Miami Valley Career Technology Center School District, hereby authorized to be entered into by the City Manager, between the City and the School Districts; and (ii) the provisions of Section 5709.40(D) of the Ohio Revised Code (collectively, the "School Compensation Payments").

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SECTION VI: A portion of the Service Payments may be paid to the County in accordance with the terms of a Compensation Agreement, hereby authorized to be entered into by the City Manager, between the City and the County, if such an agreement is requested by the County.

SECTION VII: Pursuant to Section 5709.43 of the Ohio Revised Code, there is hereby established the Harper Creek Incentive District TIF Site Public Improvement Tax Increment Equivalent Fund (the "Tax Increment Equivalent Fund"), into which the Service Payments shall be deposited. Moneys deposited in the Tax Increment Equivalent Fund shall be used only in accordance with Section 5709.43 of the Ohio Revised Code, which authorizes the City to finance the Public Improvement, to make the School Compensation Payments and to make any County Compensation Payments.

SECTION VIII: The proper City Officials are hereby authorized to do all things necessary and proper to carry out Sections II through VII of this Ordinance, including but not limited to filing any required applications for tax exemption with the Montgomery County Auditor and/or State Tax Commissioner. The City expects and intends that the owners of the Harper Creek Incentive District TIF Site will file any required applications for the tax exemption provided for by this Ordinance, but if for any reason the City must file any application or reapplication for such tax exemption, the City, as current owner of the Harper Creek Incentive District TIF Site, waives the notice and public hearing required under Section 5709.40(c)(2).

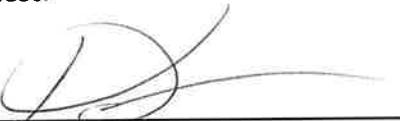
SECTION IX: Pursuant to Section 5709.40(I) of the Ohio Revised Code, the City Manager is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency within fifteen (15) days after its adoption. On or before March 31 of each year that the exemption set forth herein remains in effect, the City Manager or other authorized officer of this City shall prepare and submit to the Director of the Ohio Development Services Agency the status report required under Section 5709.40(I) of the Ohio Revised Code.

SECTION X: The Clerk of Council is hereby directed to forward a copy of this Ordinance to the County Auditor of Montgomery County.

SECTION XI: This Ordinance shall take effect at the earliest possible date allowable by law.

PASSED this 3rd day of January 2023.

Attest:



Kimberly Duncan, Clerk



Charles Letner, Mayor

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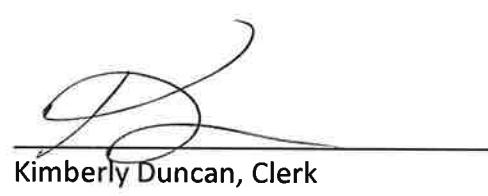
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CERTIFICATE

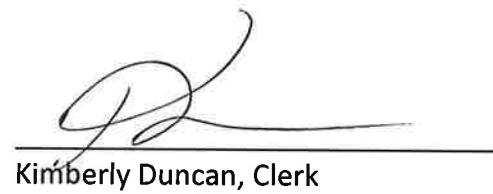
The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2023-03, passed by the Council of the City of Brookville, Ohio, on the 3rd day of January 2023.



Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2023-03 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 4th day of January 2023, to the 2nd day of February 2023, both days inclusive.



Kimberly Duncan, Clerk

EXHIBIT "A"

HARPER CREEK INCENTIVE DISTRICT TIF SITE:

PARCEL NO. C04 00610 0005 and C05 00109 0020

BOUNDARY DESCRIPTION

Containing 19.036 Total Acres

Situated in part of Section 34, Town 6, Range 4 East, City of Brookville, Montgomery County, Ohio and being all of parcel two and parcel three and being Lot 1743 of the consecutive Lots in the City of Brookville in the name of Karen Wombold as recorded in I.R. Deed 14-055115, on file at the Montgomery County Recorder's office located in Dayton, Ohio, and being more particularly described as follows;

Beginning at a found mag nail at the centerline intersection of Brookville Phillipsburg Road, Upper Lewisburg Salem Road and Albert Road, also being the northeast corner of Section 34;

Thence, along the east line of Section 34, South 00° 04' 50" West, a distance of 208.72 feet to a found mag nail on said east line of Section 34, and being the True Point of Beginning of the tract herein described;

Thence, continuing along said east section line, South 00° 04' 50" West, a distance of 855.09 feet to a set mag nail in said section line and centerline of Albert Road;

Thence, leaving said section line, centerline and along the Northerly line of Lots 1-3 of Behnken Subdivision Section Three, as recorded in Plat Book 158, Page 24, South 59° 14' 34" West, a distance of 256.91 feet (passing a set iron pin on the west right-of-way line of Albert Road at 34.91 feet, a found 5/8th inch iron pin with no cap at 192.91 feet and a found 5/8th inch iron pin with no cap at 242.91 feet) to a concrete monument at the northeast corner of a tract in the name of Kenneth B. Davis and Maribeth Joy Davis, as recorded in D.M.F. 92-592C09;

Thence, along the north line of said Davis tract and a tract known as Lot 1739 in the name of Kenneth B. Davis & Maribeth Joy Davis, as recorded in D.M.F. 97-488B11, North 89° 43' 02" West, a distance of 523.76 feet (passing a found 1/2 inch iron pin with no cap at 457.81 feet) to a concrete monument on the east line of Lot 2640 of McGregor Subdivision Section Two, as recorded in Plat Book 229, Page 67;

Thence, along the east line of Lots 2637-2640 of said McGregor Subdivision Section Two, and the east line of Lot 2600 in the name of The City of Brookville, Ohio, as recorded in I.R. Deed 08-009391, North 00° 03' 48" East, a distance of 1187.43 feet (passing a found 5/8th inch iron pin stamped BWSC at 75.40 feet, a found 5/8th inch iron pin with no cap at 375.41 feet, a found 5/8th inch iron pin stamped BWSO 8190 at 625.37 feet, a 5/8th inch iron pin with no cap at 875.38 feet, a found 5/8th inch iron pin stamped COEC WDG LS-8254 at 1152.43 feet and passing the southerly corporation line of Clay Township at 1157.43 feet) to a set mag nail at the centerline of Upper Lewisburg Salem Road and the north line of Section 34;

Thence, along the north line of Section 34, the centerline of Upper Lewisburg Salem Road, North 89° 36' 04" East, a distance of 536.01 feet to a Set mag nail on said section line and centerline;

Thence, along the west line of Kevin N. and Beth E. Reed, as recorded in I.R. Deed 08-071758, South 00° 04' 50" West, a distance of 208.72 feet (passing a found 5/8th inch iron pin stamped Winemiller & Associates and the southerly corporation line of Clay Township at 30.00 feet) to a found 5/8th inch iron pin stamped Winemiller & Associates;

Thence, with the south line of said Reed tract, North 89° 36' 04" East, a distance of 208.72 feet (passing a found 5/8th inch iron pin stamped Choice One Engineering at 178.74 feet and a found 1/2 inch iron pin with no cap at 195.24 feet being 1.05 feet north of line) to the True Point of Beginning.

This description is based on an actual field survey in March of 2021 as recorded in the Montgomery County Engineer's record of land surveys in Volume 2021, Page 0138 under my direct supervision Michael J. Wilson Registered Professional Surveyor Number 8281 of the state of Ohio, and that all monuments found or set, correctly represents the boundaries herein described.

PAUL W. GRUNER, P.E., P.S.
MONTGOMERY COUNTY ENGINEER
APPROVED FOR POINT OF BEGINNING,
ACREAGE AND CLOSURE ONLY
DATE 5/20/21 FILE NO. 2021-036
BY Wm. B. t.



KARL L. KEITH
MONTGOMERY COUNTY AUDITOR
NEW SURVEY
By CL Date 1/3/22

CESO, Inc.
Michael J. Wilson, PS
Registered Surveyor No. 8281

Date

CESO 

W:\PROJECTS\DDCM\757660 - Brookville - Upper Lewisburg
Salem Rd\04-SURVEY\Documents\Plat of Survey Description.docx
5/10/2021

