

CITY OF BROOK PARK, OHIO

ORDINANCE NO.: 11296-2022

INTRODUCED BY: MAYOR ORCUTT and C/W

P/C 11-1-22 legislative
CA _____
1st R 11-1-22
2nd R 11-15-22
3rd R 12-6-22
B/C _____

**AN ORDINANCE
DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY TO
BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION, DESCRIBING THE
PUBLIC IMPROVEMENTS TO BE MADE TO DIRECTLY BENEFIT SUCH
PARCELS, REQUIRING THE OWNERS OF THE IMPROVEMENTS ON SUCH
PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, ESTABLISHING A
MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND
FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS PURSUANT TO OHIO
REVISED CODE SECTIONS 5709.40, 5709.42 AND 5709.43, AND DECLARING AN
EMERGENCY**

WHEREAS, this Council desires to make certain public infrastructure improvements and promote economic opportunity within the City of Brook Park (the "City");

WHEREAS, Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43 (the "TIF Act") provide that this Council may declare Improvements (as defined in Ohio Revised Code Section 5709.40) with respect to such parcels of real property located in the City to be a public purpose, thereby authorizing the exemption of those Improvements from real property taxation for a period of time, provide for the making of service payments in lieu of taxes by the owner of such parcels, provide for the distribution of a portion of such service payments to the Berea City School District and the Polaris Career Center, establish a municipal public improvement tax increment equivalent fund into which such service payments shall be deposited, and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit those parcels; and

WHEREAS, the Berea City School District and the Polaris Career Center have been notified of this Ordinance consistent with Ohio Revised Code Sections 5709.40 and 5709.83;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Brook Park, County of Cuyahoga, State of Ohio, that:

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

Section 2. This Council hereby designates the public infrastructure improvements described in Exhibit B to this Ordinance (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. This Council hereby finds and determines that one hundred percent (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 Ohio Revised Code Section 5709.40(A)) is hereby declared to be a public purpose and

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BROOK PARK CITY COUNCIL

exempt from taxation in accordance with Ohio Revised Code Section 5709.40(B) for a period commencing for each separate Parcel on the January 1 of the tax year in which an Improvement would appear on the tax list and duplicate for such tax year for that Parcel (it being the intent that each Parcel be exempt for separate 30 year periods) 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.

Section 4. Pursuant to Ohio Revised Code Section 5709.42, the owner of each Parcel is hereby required to and shall make service payments in lieu of taxes with respect to the Improvement allocable thereto 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 shall 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 by the County Treasurer in connection with the reduction required by Ohio Revised Code Sections 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 allocated, distributed and deposited in accordance with Section 6 of this Ordinance.

Section 5. This City Council hereby establishes, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, the Ford Plant Municipal Improvement Tax Increment Equivalent Fund (the "TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 6 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to Ohio Revised Code Section 5709.42 shall be used solely for the purposes authorized in the TIF Act or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any incidental surplus funds remaining therein transferred to the City's General Fund, all in accordance with Ohio Revised Code Section 5709.43.

Section 6. Pursuant to the TIF Act, the Cuyahoga County Fiscal Officer is requested to distribute the Service Payments to the Berea City School District and the Polaris Career Center in an amount equal to the amount each school district would otherwise have received as real property tax payments derived from the Improvement to that Parcel if the Improvement had not been exempt from taxation pursuant to this Ordinance. The Cuyahoga County Fiscal Officer is requested to distribute all remaining Service Payments to the City for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including, without limitation, debt charges on any securities of the City heretofore or hereafter issued to pay or reimburse financing costs or costs of those Public Infrastructure Improvements and any other lawful purpose.

Section 7. This Council hereby authorizes and directs the Mayor, the Director of Finance, the Director of Law, the Clerk of Council or other appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments and the Property Tax Rollback Payments. This Council further hereby authorizes and directs the Mayor, the Director of Finance, the Director of Law, the Clerk of Council or other appropriate officers of the City to prepare and sign all documents and instruments and to take any other actions as may be appropriate to implement this Ordinance.

Section 8. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Department of

Development within fifteen days after its effective date. Further, and on or before March 31 of each year that the tax exemption authorized by Section 3 remains in effect, the Economic Development Commissioner or other authorized officer of the City is directed to prepare and submit to the Director of the Ohio Department of Development the status report required under Ohio Revised Code Section 5709.40(I).

Section 9. This Council finds and determines that all formal actions of this Council and of any of its committees concerning and relating to the passage of this ordinance were taken, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

Section 10. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City, and for the further reason to implement tax increment financing and maximize funding for Public Infrastructure Improvements; provided this Ordinance received the affirmative vote of at least five (5) members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

PASSED: December 6, 2022

M. P. Koculic
PRESIDENT OF COUNCIL

ATTEST:

Carol Johnson
CLERK OF COUNCIL

APPROVED:

Ch. A. Smith
MAYOR

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. 11296-2022

passed on the 6 day of December 20 22 by said council.

Carol Johnson
Clerk of Council

12-6-22
DATE

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 12-8-22
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"/>

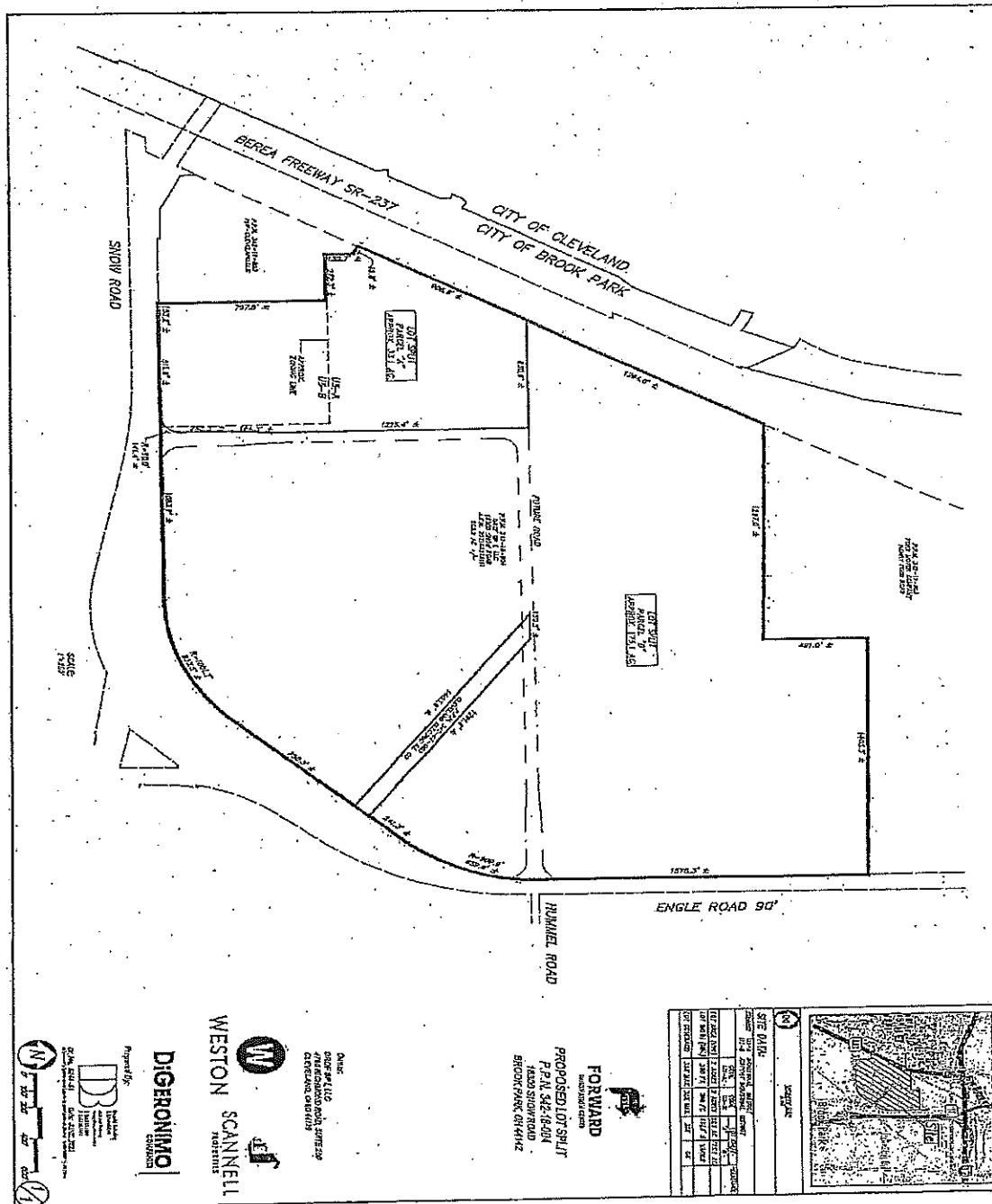
I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

[Signature]
DIRECTOR OF LAW

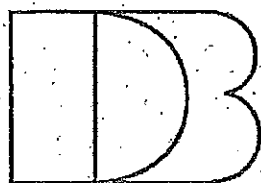
EXHIBIT A

THE PARCELS

The Parcels consist of the real property identified on the map below as Parcel "B" and as of October 21 as the tax parcel number 34218005 in the Cuyahoga County Records. The following legal description and parcel number are for convenient reference only, and are not intended to, and do not, limit the parcels subject to this ordinance as shown on the following map.



Legal Description



**Donald Bohning
& Associates**

7979 Hub Parkway
Valley View, Ohio 44125

T 216.642.1130
F 216.642.1132

Parcel "B-1"
174.9392 Acres
DGB 5244-51

July, 2022

Legal Description

Situated in the City of Brook Park, County of Cuyahoga, and State of Ohio, and known as being part of Parcel "B" in a Lot Split and Consolidation of part of Original Middleburgh Township Lot Nos. 4, 5, and 6 in Section 10 and Lot Nos. 2, 3, 4, 5 and 6 in Section 11, as recorded in A.F.N. 202103050651 of Cuyahoga County Records, and bounded and described as follows:

Beginning at an iron monument found in the original centerline of Snow Road Extension, at its intersection with the easterly line of said Original Middleburgh Township Lot No. 4;

Thence North 1 degrees 17 minutes 45 seconds West, 50.00 feet to a nail set at an angle point in the northerly line of Snow Road Extension, variable width;

Thence South 88 degrees 15 minutes 03 seconds East along the northerly line of Snow Road Extension, 614.00 feet to a nail set, and the principal place of beginning of the parcel herein described;

Thence North 1 degree 49 minutes 04 seconds East, 1742.63 feet to an iron pin set;

Thence North 88 degrees 10 minutes 46 seconds West, 630.26 feet to an iron pin set at its intersection with the southeasterly right-of-way conveyed to Pennsylvania Lines, LLC by deed recorded as A.F.N. 200208200162 of Cuyahoga County Records;

Thence North 31 degrees 40 minutes 37 seconds East along the southeasterly right-of-way of said land conveyed to Pennsylvania Lines, LLC, 1288.36 feet to a point in the southwesterly corner of Parcel "A" in said Lot Split & Consolidation, and from which point a capped iron pin (illegible) found bears South 86 degrees 57 minutes 00 seconds East, 2.00 feet;

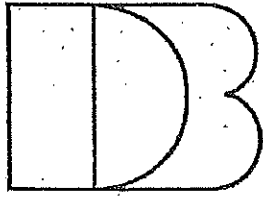
Thence South 86 degrees 57 minutes 00 seconds East along the southerly of said Parcel "A", 1287.15 feet to a nail set at an angle point, therein;

Thence North 2 degrees 29 minutes 31 seconds East along the southerly line of said Parcel "A", 491.02 feet to a nail found at an angle point, therein;

Thence South 87 degrees 15 minutes 27 second East along the southerly line of said Parcel "A", 1405.05 feet to a nail found in the westerly line of Engle Road, 90 feet wide;

Thence South 2 degrees 34 minutes 44 seconds West along the westerly line of Engle Road, 1573.67 feet to a nail found at a point of curvature;

Thence southwesterly along the curved westerly line of Engle Road, being the arc of a curve deflecting to the right, 660.49 feet to a point of tangency, said arc having a radius of 909.93 feet, a central angle of 41 degrees 35 minutes 21 seconds, and a chord which bears South 23 degrees 22 minutes 25 seconds West, 646.08 feet and from which point a capped iron pin (Mannik Smith Group) found bears North 44 degrees 10 minutes 05 seconds East, 0.24 feet;



**Donald Bohning
& Associates**

7979 Hub Parkway
Valley View, Ohio 44125

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F 216.642.1132

Parcel "B-1"
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Thence South 44 degrees 10 minutes 05 seconds West along the northwesterly line of Engle Road, 241.18 feet to its intersection with the northeasterly line of a parcel of land conveyed to Cleveland Electric Illuminating Company by deed recorded in Vol 7429, Page 163 of Cuyahoga County Records; and from which point an iron pin found bears South 45 degrees 49 minutes 55 seconds East, 0.76 feet; South 44 degrees 10 minutes 05 seconds West, 1.45 feet;

Thence North 51 degrees 05 minutes 33 seconds West along the northeasterly line of said land conveyed to Cleveland Electric Illuminating Company, 1291.60 feet to a nail set in the northeasterly corner, thereof;

Thence North 87 degrees 49 minutes 46 seconds West along the northerly line of said land conveyed to Cleveland Electric Illuminating Company, 150.46 feet to a nail set in the southwesterly corner, thereof;

Thence South 51 degrees 05 minutes 33 seconds East along the southwesterly line of said land conveyed to Cleveland Electric Illuminating Company, 1403.90 feet to a point in the northwesterly line of Engle Road, and from which an iron pin found bears South 45 degrees 49 minutes 55 seconds East, 0.38 feet;

Thence South 44 degrees 10 minutes 05 seconds West along the northwesterly line of Engle Road, 750.00 feet to a point of curvature and from which point a capped iron pin (Mannik Smith Group) found bears South 44 degrees 10 minutes 05 seconds East, 0.23 feet;

Thence southwesterly along the curved northerly line of Engle Road, being the arc of a curve deflecting to the right, 833.02 feet to a point of tangency, said arc having a radius of 1001.66 feet, a central angle of 47 degrees 38 minutes 59 seconds, and a chord which bears South 67 degrees 59 minutes 35 seconds West, 809.22 feet and from which point a nail found bears North 88 degrees 10 minutes 56 seconds West, 0.60 feet;

Thence North 88 degrees 10 minutes 56 seconds West, along the northerly line of Snow Road Extension, 981.52 feet to the principal place of beginning, and containing 174.9392 acres of land as described by Donald G. Bohning & Associates, Inc. in July, 2022.

Michael A. Ackerman

Registered Surveyor No. 8196

m:\adccdd\p\5000-5499\5244-51\documents\legals\parcel b-1 174.939 acres_july 2022.doc

EXHIBIT B

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include any “public infrastructure improvement” defined under ORC Section 5709.40(A)(8) and all related costs of those permanent improvements (including, but not limited to, those costs listed in ORC Section 133.15(B)) and the following:

- **Roadways.** Construction, reconstruction, extension, opening, improving, maintaining, 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, all other appurtenances thereto.
- **Parking.** Construction, reconstruction, improving, and equipping of surface or structured public parking facilities.
- **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.
- **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 mechanical relocations for electric and communications facilities necessary for the development of the Property, and 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, and 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 of the existing structures on the Parcels.
- **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, including acquisition of interests in the Parcels necessary for redevelopment of the Parcels.
- **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.