

CITY OF BROOK PARK, OHIO

Amended

P/C _____
CA Can 6/17/14
1st R 6/17/14
2nd R 7/1/14 Sp. Council
3rd R _____
B/C _____

ORDINANCE NO: 9919-2014

INTRODUCED BY: MAYOR COYNE

AN ORDINANCE
AUTHORIZING THE CITY OF BROOK PARK TO ENTER INTO AN
AGREEMENT WITH LAKEVIEW MOTORSPORTS, LLC, dba
ROCK-N-ROLL CITY HARLEY DAVIDSON,
AND DECLARING AN EMERGENCY

WHEREAS, Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley-Davidson recently completed the purchase of the Harley-Davidson Sales Co. of Cleveland and will continue the legacy that was started by L.H. Simonson in 1929; and

WHEREAS, Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley-Davidson has elected to relocate its operations to the City of Brook Park to establish a contemporary full service motorcycle dealership carrying a complete line of Harley-Davidson motorcycles, parts, accessories, riding apparel and collectibles, as well as motorcycle service and rentals; and

WHEREAS, Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson will employ at least 43 employees with an estimated average annual payroll in excess of \$1.4 Million Dollars; and

WHEREAS, Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson has entered into a contract to purchase certain lands located at 4985 West 150th Street, Brook Park, Ohio; and

WHEREAS, Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson intends to commence construction of a new \$3.5 Million dealership facility in the City of Brook Park on or before November 1, 2014; and

WHEREAS, the City of Brook Park has encouraged the development of real property and the acquisition of personal property located in the City's Enterprise Zone and Target Improvement Zone; and

WHEREAS, Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson are desirous of undertaking a project which will create employment opportunities within the City of Brook Park, provided that the appropriate development incentives are available to support the economic viability of said project; and

WHEREAS, the City of Brook Park, having the appropriate authority for the stated type of project, is desirous of providing Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson with incentives available for the development of the project consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State; and

WHEREAS, the Mayor, of the City of Brook Park, has investigated the request of Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson and has recommended the same to the City on the basis that Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City of Brook Park;

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

SECTION 1: The Mayor is hereby authorized to enter into an Incentive Grant Agreement with Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson, a copy of which is attached hereto, marked Exhibit "A," and incorporated herein as if fully rewritten.

SECTION 2: The money needed for the aforesaid transaction shall be paid from funds theretofore appropriated or be appropriated for said purpose.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason to provide a grant to Lakeview Motorsports, LLC, dba Rock-N-Roll City Harley Davidson; therefore this Ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED:

July 1, 2014

Dennis J. Patten
PRESIDENT OF COUNCIL

ATTEST:

Michelle Blazak
Clerk of Council

APPROVED:

[Signature]
MAYOR

7/1/2014
DATE

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

[Signature]
DIRECTOR OF LAW

CERTIFICATE

Michelle Blazak, 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. 9919-2014
passed on the 1st day of July
20 14 by said council.

Michelle Blazak
Clerk of Council

I, Michelle Blazak, 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 six of the most public places in said municipality as determined by Ordinance No. 4838-1975: Location City Hall 2101 Temple Road, Police Station 12401 Holland Road, #1 Fire Station 5500 Smith Road, #2 Fire Station 22000 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 18501 Ruple Road, for a period of fifteen days.

attest July 2, 2014
Michelle Blazak
MICHELLE BLAZAK
Clerk of Council

CITY OF BROOK PARK INCENTIVE GRANT

This agreement made and entered into by and between the City of Brook Park, Ohio, a municipal corporation, with its main offices located at 6161 Engle Road, Brook Park, Ohio 44142 (hereinafter referred to as "Brook Park" and Lakeview Motorsports, LLC dba Rock-N-Roll City Harley Davidson, with its main offices to be located at 4985 West 150th Street, Brook Park, Ohio 44142 (hereinafter referred to as "Lakeview").

WITNESSETH:

WHEREAS, the City of Brook Park has encouraged the development of real property and the acquisition of personal property located in the City's Enterprise Zone and Target Improvement Zone; and

WHEREAS, Lakeview is desirous of undertaking a project which will create employment opportunities within the City of Brook Park, provided that the appropriate development incentives are available to support the economic viability of said project; and

WHEREAS, the City of Brook Park, having the appropriate authority for the stated type of project, is desirous of providing Lakeview with incentives available for the development of the project consistent with the purposes of Section 13 of Article VIII of the Ohio Constitution to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State; and

WHEREAS, the Mayor, Thomas J. Coyne, Jr., of the City of Brook Park has investigated the request of Lakeview and has recommended the same to the City Council of the City of Brook Park on the basis that Lakeview is qualified by financial responsibility and business experience to create and preserve employment opportunities and improve the economic climate of the City of Brook Park; and



WHEREAS, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Lakeview shall purchase and/or install machinery and equipment and furniture and fixtures, or like similar items in value, at 4985 West 150th Street or other location as the parties may agree, in the City of Brook Park, Ohio.

The project shall involve a total investment by Lakeview of approximately Three Million Five Hundred Thousand Dollars, (\$3,500,000.00) at 4985 West 150th Street, Brook Park, Ohio, also known as a portion of Permanent Parcel Nos. 344-35-021 and 344-32-006. Included in this investment are building improvements, machinery, equipment, furniture fixtures and inventory.

2. Lakeview shall utilize best efforts to commence construction of a new motorcycle dealership at 4985 West 150th Street, Brook Park, Ohio on or before November 1, 2014.

3. Upon the final approval of construction plans and the issuance of construction permits by the Brook Park Building Department, Brook Park shall pay to Lakeview as an incentive grant the amount of Two Hundred Thousand Dollars (\$200,000.00).

4. Any and all federal, state or county grants, aid and/or assistance applied for and obtained by Brook Park to assist Lakeview in the development of the storefront, streetscape and/or motorcycle dealership at 4985 West 150th Street, Brook Park, Ohio, shall be set off against the incentive grant given to Lakeview by Brook Park as set forth herein.

5. Failure of Lakeview to purchase the real property located at 4985 West 150th Street, Brook Park, Ohio on or before December 31, 2014; to construct a new motorcycle dealership at

4985 West 150th Street, Brook Park, Ohio on or about July 1, 2015; and/or to relocate the Rock-N-Roll Harley Davidson dealership operations to 4985 West 150th Street, Brook Park, Ohio on or before November 1, 2015, shall cause a forfeiture of the incentive grant to Lakeview by Brook Park. In the event Lakeview misses one of the deadlines in this Agreement due to unforeseen circumstances, such as may be caused by weather, or delays in approvals or permitting, the affected deadline shall be extended by mutual agreement which will not be unreasonably withheld, for a reasonable period of time to allow completion. In the event of a forfeiture of the incentive grant, Lakeview shall repay to Brook Park any and all monies received pursuant to said incentive grant. To insure repayment of said monies Lakeview and its owners shall execute a cognovit note in favor of Brook Park memorializing the terms and conditions set forth herein.

6. This agreement is not transferable or assignable without the express, legislative approval of the City of Brook Park provided, however, Lakeview, may assign any or all of its rights, interests or obligations hereunder in connection with any sale of the Company or to another entity formed by and owned by the owner of Lakeview.

7. This agreement is binding upon Lakeview and its successors or assigns.

8. The agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.

9. The parties agree: (i) not to disclose the Confidential Information (as defined below) of the party or its agents, to third parties (excluding a party's agents or representatives); (ii) not to use the Confidential Information except for enforcement of or in furtherance of the purposes of this agreement; and (iii) that the Confidential Information of a party is and shall remain the property of the disclosing party. Confidential Information shall not include information that became known to the receiving party prior to the disclosing party's disclosure of such

information to the receiving party. Nothing in this agreement shall preclude the City of Brook Park from releasing any information as required by law.

10. In the event of a dispute arising out of this agreement, the parties agree to negotiate in good faith to discuss and attempt to resolve the issues which are the subject of the dispute. If the parties are unable to resolve the dispute, such dispute shall be submitted to binding arbitration for final resolution. The parties may submit for arbitration or litigation any and all confidential information necessary to support its case despite the provisions of paragraph eleven (11) herein. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") and shall be held in Cleveland, Ohio. There shall be one arbitrator, and such arbitrator shall be chosen by mutual agreement of the parties in accordance with AAA rules. The findings of the arbitrator shall be final and binding on the parties and may be entered by either party in a court of proper jurisdiction located in Cleveland, Ohio for purposes of enforcement.

11. This agreement shall be null and void and the parties released from any liability to the other should a court of competent jurisdiction determine that the agreement is unlawful, except, however Lakeview shall repay to Brook Park all sums paid to it pursuant to this agreement by Brook Park should Brook Park or any of its employees, agents or officers be required or ordered to recover the grant funds paid to Lakeview.

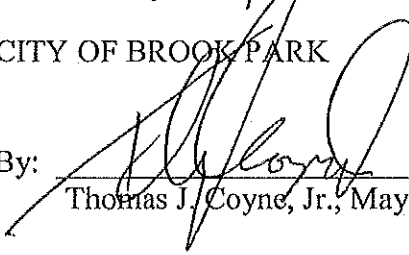
IN WITNESS WHEREOF, the City of Brook Park, Ohio, by Thomas J. Coyne, Jr., its Mayor, and pursuant to Ordinance No. 9919-2014 has caused this instrument to be executed in _____ counterparts this 1st day of July, 2014, and Lakeview Motorsports, LLC dba Rock-N-Roll City Harley Davidson by _____, its

_____, has caused this instrument to be executed on this 18th day of

July, 2014.

CITY OF BROOK PARK

By:


Thomas J. Coyne, Jr., Mayor

LAKEVIEW MOTORSPORTS, LLC

By:

Michael S. Davis, Managing Member

Approved as to Form:

Neal M. Jamison, Law Director