

Sponsor: Lemaster

ORDINANCE NO. 2023-77

AN ORDINANCE OF THE LEGISLATIVE AUTHORITY OF THE CITY OF WELLSTON, OHIO TO AUTHORIZE THE MAYOR TO EXECUTE AN ENTERPRISE ZONE AGREEMENT WITH BCR HOLDINGS COMPANY, LLC AND DECLARING AN EMERGENCY.

WHEREAS, BCR HOLDINGS COMPANY, LLC, the owner of the business known as BCR Holdings Company, LLC, desires to invest in its property, located in an enterprise zone, for renovations to its 2230 Honeysuckle Lane property and requires an abatement of a percentage of real estate taxes on the improvement; and

WHEREAS, the expected renovation and construction is beneficial to the economy and is necessary for the preservation of the public health, safety and welfare of the City and its citizens and immediate passage of this ordinance constitutes an emergency as delay in passage may delay or jeopardize the construction project.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. The legislative authority of the City of Wellston hereby authorizes the Mayor to execute, together with BCR HOLDINGS COMPANY, LLC, the Ohio Enterprise Zone Agreement as attached hereto.

Section 2. This matter is hereby declared to be an emergency necessary for the immediate preservation of the public peace, health or safety of the City of Wellston, Ohio for the reasons set forth above. Therefore, this Ordinance shall go into effect upon passage and as provided in Ohio Revised Code Section 731.30.

Section 3. In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

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

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 20th day of December, 2023.



A handwritten signature in blue ink, appearing to read "W. W. L.", is placed over a horizontal line. Below the line, the title "President of Council" is printed in a smaller, black, sans-serif font.

ATTEST:

M. Bensnaugle

Clerk of the Legislative Authority



APPROVED this 20th day of December, 2023.

C. C.
Mayor

OHIO ENTERPRISE ZONE AGREEMENT

THIS AGREEMENT made and entered into by and between the **City of Wellston, Ohio**, a municipality, with its main offices located at 203 E. Broadway St., Wellston, Ohio (hereinafter referred to as the City of Wellston, Ohio, and **BCR HOLDINGS COMPANY, LLC.**, an Ohio limited liability company, with its main offices located at 2230 Honeysuckle Lane, Wellston, Ohio, (hereinafter referred to as "Enterprise"), WITNESSETH;

WHEREAS, the **City of Wellston, Ohio** has encouraged the development of real property and the acquisition of personal property located in the area designated as an Enterprise Zone; and

WHEREAS, **BCR** is desirous to purchase and redevelop real property at 2230 Honeysuckle Lane to support continued growth of Buckeye Construction & Restoration as well as to create space for future businesses to locate within the City and within the boundaries of the aforementioned Enterprise Zone, provided that the appropriate development incentives are available to support the economic viability of said relocation (hereinafter referred to as "Project"); and

WHEREAS, the Council of the **City of Wellston, Ohio**, by Ordinance, has designated the area as an "Enterprise Zone" pursuant Chapter 5709 of the Ohio Revised Code; and

WHEREAS, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance, contains the characteristics set forth in Section 5709.61(A) of the Ohio Revised Code and certified said area as an Enterprise Zone under said Chapter 5709; and

WHEREAS, the **City of Wellston, Ohio**, having the appropriate authority for the stated type of project is desirous of providing **BCR HOLDINGS COMPANY, LLC.** with incentives available for the development of the **PROJECT** in said Enterprise Zone under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, BCR HOLDINGS COMPANY, LLC. has submitted a proposed agreement application (herein attached as Exhibit A) to the **City of Wellston, Ohio**, said application (hereinafter referred to as "APPLICATION"); and

WHEREAS, BCR HOLDINGS COMPANY, LLC. has remitted the required state application fee of \$750.00 made payable to the Ohio Development Services Agency with the application to be forwarded with the final agreement; and

WHEREAS, the Mayor of the City of Wellston, Ohio has investigated the application of **BCR HOLDINGS COMPANY, LLC.** and has recommended the same to the Council of the City of Wellston, Ohio, on the basis that **BCR HOLDINGS COMPANY, LLC.** is qualified by financial responsibility and business experience to create and preserve employment opportunities in said Enterprise Zone and improve the economic climate of the **City of Wellston, Ohio**; and

WHEREAS, the project site as proposed by BCR HOLDINGS COMPANY, LLC is located in the Wellston City School District and the Gallia-Jackson-Vinton Joint Vocational School District and the Board of Education of each have been notified in accordance with Section 5709.83 and been given a copy of the APPLICATION; and

WHEREAS, pursuant to Section 5709.62(C), 5709.63(A) or 5709.632 and in conformance with the format required under Section 5709.631 of the Ohio Revised Code, 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. **BCR HOLDINGS COMPANY, LLC** shall undertake and complete construction of the redevelopment of property within the City of Wellston on 2230 Honeysuckle Lane so that the property, when construction is completed, will be increased in value by more than 50% of its current value of \$225,000. The tax incentive will allow BCR to establish operations in the City of Wellston and complete the project as described in its application.

The parcels affected are Parcel Nos. M240330000900, 2230 Honeysuckle Lane, Wellston, Ohio.

The PROJECT will begin in the Fourth Quarter of 2023, and be completed by the Fourth Quarter of 2026, provided a tax exemption is provided

The PROJECT will represent an estimated significant new investment of an amount between \$800,000.00 and \$1,050,000.00.

2. **BCR HOLDINGS COMPANY, LLC.** shall create within a time period not exceeding thirty-six months after commencement of construction of the aforesaid facility.

This increase in the number of employees will result in approximately \$457,600.00 of new annual payroll in the City of Wellston, Ohio.

BCR HOLDINGS COMPANY, LLC currently has 0 full-time permanent employees at the project site.

3. **BCR HOLDINGS COMPANY, LLC.** shall provide to the proper Tax Incentive Review Council any information reasonably required by the council to evaluate the enterprise's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council.
4. **City of Wellston, Ohio** hereby grants a tax exemption pursuant Section 5709.62, 5709.63 or 5709.632 for eligible new tangible personal property acquired in conjunction with the PROJECT and will only apply to the limits expressed in the project description as defined in Sections 1 and 4 of this agreement.

75% on all furniture and fixtures, machinery, and equipment acquired as part of PROJECT as defined in Section 1 of this agreement. Each identified project improvement will receive a ten-year exemption period.

The minimum investment for tangible personal property to qualify for the exemption is: \$550,000 to acquire buildings; \$0 for additions and new construction; \$250,000 for improvements to existing buildings; \$0 to purchase machinery and equipment first used in business at the facility as a result of the project; \$0 to purchase furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project; and \$0 for new inventory. The maximum investment tangible personal property to qualify for exemption is: \$550,000 to acquire buildings; \$0 for additions and new construction; \$500,000 for improvements to existing buildings; \$0 to purchase machinery and equipment first used in business at the facility as a result of the project; \$0 to purchase furniture and fixtures and other non-inventory personal property first used in business at the facility as a result of the project; and \$0 for new inventory. The exemption commences the first year for which the tangible personal property would first be taxed were that property not exempted from taxation. No exemption shall commence before tax year 2023 nor extend beyond tax return year 2032. In no instance shall any tangible personal property be exempted from taxation for more than ten return years.

No exemption shall be allowed for any type of tangible personal property if the total investment is less than the minimum dollar amount specified for that type of property. If there are no minimum or maximum investment dollar amounts specified for a type of tangible personal property in the above statement or the dollar amounts are designated in the statement as not applicable, the exemption shall apply only as specified in the project as defined in Section 1 of this agreement.

5. **City of Wellston, Ohio** hereby grants **BCR HOLDINGS COMPANY, LLC.** a tax exemption for real property improvements made to the PROJECT site pursuant to

Section 5709.62, 5709.63 or 5709.632 of the Ohio Revised Code and shall be in the following amounts:

The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence before 2023 nor extend beyond 2032.

<u>Year of Tax Exemption</u>	<u>Tax Exemption Amount</u>
<u>YR 1</u>	<u>75%</u>
<u>YR 2</u>	<u>75%</u>
<u>YR 3</u>	<u>75%</u>
<u>YR 4</u>	<u>75%</u>
<u>YR 5</u>	<u>75%</u>
<u>YR 6</u>	<u>75%</u>
<u>YR 7</u>	<u>75%</u>
<u>YR 8</u>	<u>75%</u>
<u>YR 9</u>	<u>75%</u>
<u>YR 10</u>	<u>75%</u>

BCR HOLDINGS COMPANY, LLC must file the appropriate tax forms (DTE 23) with the County Auditor and (#913) with the State Department of Taxation to effect and maintain the exemptions covered in the agreement. The #913 Ohio tax form must be filed annually.

6. **BCR HOLDINGS COMPANY, LLC.** shall pay an annual fee equal to the greater of one percent of the dollar value of incentives offered under the agreement or five hundred dollars: provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars.

The fee shall be made payable to the **Jackson County Economic Development Partnership** once per year for each year the agreement is effective on the days and in the following form: check or certified check. This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with section 5709.68 of the revised code and by the tax incentive review council created under section 5709.85 of the revised code exclusively for the purposes of performing the duties prescribed under that section.

7. **BCR HOLDINGS COMPANY, LLC.** shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. **BCR HOLDINGS COMPANY, LLC.** fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

8. The **City of Wellston, Ohio**, shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

9. If for any reason the Enterprise Zone designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or City of Wellston,

Ohio, revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless **BCR HOLDINGS COMPANY, LLC.** materially fails to fulfill its obligations under this agreement and the **City of Wellston, Ohio**, terminates or modifies the exemptions from taxation granted under this agreement.

10. If **BCR HOLDINGS COMPANY, LLC.** materially fails to fulfill its obligations under this agreement, or if the **City of Wellston, Ohio** determines that the certification as to delinquent taxes required by this agreement is fraudulent, the **City of Wellston, Ohio** may terminate or modify the exemptions from taxation granted under this agreement.

11. **BCR HOLDINGS COMPANY, LLC.** hereby certifies that at the time this agreement is executed, **BCR HOLDINGS COMPANY, LLC.** does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio and does not owe delinquent taxes for which **BCR HOLDINGS COMPANY, LLC.** is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, **BCR HOLDINGS COMPANY, LLC.** currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against **BCR HOLDINGS COMPANY, LLC.** For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.

12. **BCR HOLDINGS COMPANY, LLC.** affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

13. **BCR HOLDINGS COMPANY, LLC.** and the **City of Wellston, Ohio** acknowledge that this agreement must be approved by formal action of the legislative authority of the **City of Wellston, Ohio**, as a condition for the agreement to take effect. This agreement takes effect upon such approval.

14. The **City of Wellston, Ohio** has developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this agreement, **BCR HOLDINGS COMPANY, LLC.** is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

15. Exemptions from taxation granted under this agreement shall be revoked if it is determined that **BCR HOLDINGS COMPANY, LLC.**, any successor enterprise, or any related member (as those terms are defined in Section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62, 5709.63, or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.

16. **BCR HOLDINGS COMPANY, LLC.** affirmatively covenants that it has made no false statements to the State or local political subdivision in the process of obtaining approval for the Enterprise Zone incentives. If any representative of **BCR HOLDINGS COMPANY, LLC.** has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, **BCR HOLDINGS COMPANY,**

LLC. shall be required to immediately return all benefits received under the Enterprise Zone Agreement pursuant to ORC Section 9.66 (C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to ORC Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.

17. This agreement is not transferrable or assignable without the express, written approval of the **City of Wellston, Ohio**.

IN WITNESS WHEREOF, the **City of Wellston, Ohio**, by Anthony Brenner, its Mayor, and pursuant to Ordinance No. 2023-77 has caused this instrument to be executed this 20th day of December, 2023, and **BCR HOLDINGS COMPANY, LLC.** by Bob Brown, its President, has caused this instrument to be executed on this _____ day of _____, 2023.

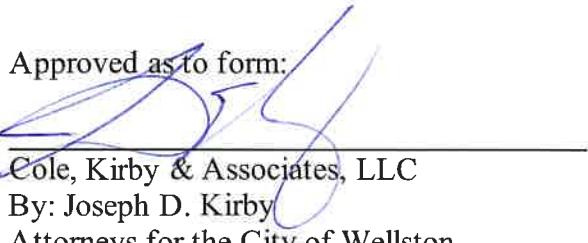
The City of Wellston, Ohio

By 
Anthony Brenner, Mayor

BCR HOLDINGS COMPANY, LLC

By _____
Bob Brown, President

Approved as to form:


Cole, Kirby & Associates, LLC
By: Joseph D. Kirby
Attorneys for the City of Wellston