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3 CITY OF CUYAHOGA FALLS

4  
5 ORDINANCE NO. 35-2017

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8 CREATING A TAX INCREMENT FINANCING INCENTIVE DISTRICT;  
9 DECLARING IMPROVEMENTS TO THE PARCELS WITHIN THE  
10 INCENTIVE DISTRICT TO BE A PUBLIC PURPOSE AND EXEMPT  
11 FROM REAL PROPERTY TAXATION; REQUIRING THE OWNERS  
12 OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF  
13 TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT  
14 TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF  
15 THOSE SERVICE PAYMENTS; AND SPECIFYING THE PUBLIC  
16 INFRASTRUCTURE IMPROVEMENTS THAT BENEFIT OR SERVE  
17 PARCELS IN THE INCENTIVE DISTRICT.

18  
19 WHEREAS, Ohio Revised Code (“ORC”) Sections 5709.40, 5709.42, and 5709.43  
20 (collectively, the “TIF Statutes”) authorize this Council, by ordinance, to create an incentive  
21 district within the corporate boundaries of the City of Cuyahoga Falls, Ohio (the “City”), and  
22 declare the improvement to each parcel of real property located within the incentive district to  
23 be a public purpose and exempt from taxation, require the owner of each parcel to make service  
24 payments in lieu of taxes, establish a municipal public improvement tax increment equivalent  
25 fund for the deposit of those service payments, and specify public infrastructure improvements  
26 made, to be made or in the process of being made that benefit or serve, or that once made will  
27 benefit or serve, parcels in the incentive district; and

28  
29 WHEREAS, the City desires to create the Mudbrook - Mill Pond Incentive District, an  
30 incentive district (the “Incentive District”) under ORC Section 5709.40(C), the boundaries of  
31 which will be coextensive with the boundaries of, and will include, the Parcels (as defined in  
32 Section 1) and as further reflected on the map set forth on Exhibit A; and

33  
34 WHEREAS, the City anticipates that 72 new single-family homes will be constructed  
35 within the Incentive District and commercial development of a home improvement store and a  
36 senior housing facility (collectively, the “Project”); and

37  
38 WHEREAS, by Ordinance No. 97-2016 adopted on December 27, 2016, this Council  
39 approved an Economic Development Plan for the Incentive District (the “Economic Development  
40 Plan”), which Economic Development Plan is on file with the City Department of Planning and  
41 Development and provides that the current infrastructure in the Incentive District is inadequate  
42 to support development of the Incentive District due to inadequate stormwater management  
43 system and flood controls, sanitary sewer extensions and road connections and floodplain  
44 mitigation controls; and

45  
46 WHEREAS, since the adoption of the Economic Development Plan the Parcels have been  
47 further subdivided with such additional parcel numbers reflected on Exhibit A hereto; and

48  
49 WHEREAS, the City Engineer has certified to this Council that (i) the Incentive District is  
50 less than 300 acres in size and enclosed by a contiguous boundary, and (ii) the public  
51 infrastructure serving the Incentive District is inadequate to meet the development needs of the  
52 Incentive District as evidenced by the Economic Development Plan; and

54 WHEREAS, notice of this proposed ordinance has been delivered to the Board of  
55 Education of the Woodridge Local School District (the "School District") in accordance with and  
56 within the time periods prescribed in ORC Sections 5709.40 and 5709.83; and  
57

58 WHEREAS, a public hearing was held on March 20, 2017 and notice given pursuant to  
59 ORC Section 5709.40(D) and 5709.83; and  
60

61 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,  
62 Summit County, Ohio, that:  
63

64 Section 1. Incentive District Projects; Creation of Incentive District. This Council  
65 finds and determines that the Project will place additional demand on the Public Infrastructure  
66 Improvements (as defined in Section 2). This Council further finds that the sum of the taxable  
67 value of real property in the Incentive District for tax year 2016 and the taxable value of all real  
68 property in the City that would have been taxable in tax year 2016 were it not for the fact that  
69 the property was in an existing incentive district and therefore exemption from taxation, does  
70 not exceed twenty-five percent of the taxable value of real property within the City for tax year  
71 2016. Pursuant to the TIF Statutes, this Council creates the Incentive District, the boundaries  
72 of which are coextensive with the boundaries of, and include, the Parcels specifically identified  
73 and depicted in Exhibit A (as currently or subsequently configured, the "Parcels," with each  
74 individual parcel a "Parcel") and as further reflected on the map depicted in Exhibit A.  
75

76 This Council hereby confirms the findings of the Economic Development Plan and  
77 confirms that the existing infrastructure in the Incentive District is inadequate to support  
78 development of the Incentive District including the findings that the Incentive District lacks an  
79 adequate stormwater management system and flood controls leading to frequent flooding and  
80 has insufficient sanitary sewer extensions and road connections. Within the Incentive District,  
81 the Mud Brook stream corridor lacks proper floodplain mitigation controls that cause frequent  
82 flooding of the stream as well as unstable streambanks. This Council hereby finds that in order  
83 for the Incentive District to be developed in a viable manner, the Incentive District will need new  
84 or updated infrastructure in the way of construction of and improvements to the stormwater  
85 management system and flood controls, construction of streetways, sanitary sewer extensions,  
86 floodplain mitigation and controls and streambank stabilization improvements. Passive  
87 recreation improvements will also support stormwater management in the Incentive District.  
88

89 Section 2. Public Infrastructure Improvements. This Council hereby designates the  
90 public infrastructure improvements described in Exhibit B (the "Public Infrastructure  
91 Improvements") and any other public infrastructure improvements hereafter designated by  
92 ordinance as public infrastructure improvements made, to be made or in the process of being made  
93 by the City that benefit or serve, or that once made will benefit or serve, the Parcels.  
94

95 Section 3. Authorization of Tax Exemption; Life of Incentive District. Pursuant to and  
96 in accordance with the provisions of ORC Section 5709.40(C), this Council declares that 75% of  
97 the increase in assessed value of each Parcel subsequent to the effective date of this ordinance  
98 (which increase in assessed value is hereinafter referred to as the "Improvement" as defined in ORC  
99 Section 5709.40(A)) is a public purpose and exempt from taxation for a period coextensive with the  
100 life of the Incentive District. The life of the Incentive District commences with the first tax year that  
101 begins after the effective date of this ordinance and in which an Improvement attributable to a new  
102 structure would first appear on the tax list and duplicate of real and public utility property for any  
103 Parcel within the Incentive District were it not for the exemption granted in this ordinance and  
104 ends on the earlier of (a) 10 years after such commencement or (b) the date on which the City can  
105 no longer require service payments in lieu of taxes, all in accordance with the requirements of the  
106 TIF Statutes. Notwithstanding any other provision of this ordinance, the exemption granted  
107 pursuant to this Section 3 and the payment obligations established pursuant to Section 4 of this  
108 ordinance are subject and subordinate to any tax exemptions applicable to the Improvement under

109 ORC Sections 3735.65 through 3735.70; provided, however, that this does not preclude a  
110 community reinvestment area exemption and tax increment financing exemption from occurring  
111 in the same tax years.

112  
113 Section 4. Service Payments. As provided in ORC Section 5709.42, the owner of each  
114 Parcel is hereby required to make service payments in lieu of taxes with respect to the Improvement  
115 allocable to each Parcel to the Summit County Fiscal Officer (the "County Fiscal Officer") on or  
116 before the final dates for payment of real property taxes. The service payments in lieu of taxes will  
117 be charged and collected in the same manner and in the same amount as the real property taxes  
118 that would have been charged and collected against that Improvement if it were not exempt from  
119 taxation pursuant to Section 3, including any penalties and interest (collectively, the "Service  
120 Payments"). The Service Payments, and any other payments with respect to each Improvement  
121 that are received by the County Fiscal Officer in connection with the reduction required by ORC  
122 Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time,  
123 or any successor provisions thereto as the same may be amended from time to time (the "Property  
124 Tax Rollback Payments"), will be deposited and distributed in accordance with Section 6.

125  
126 Section 5. TIF Fund. This Council establishes, pursuant to and in accordance with  
127 the provisions of ORC Section 5709.43, the Mudbrook – Mill Pond Municipal Public Improvement  
128 Tax Increment Equivalent Fund (the "TIF Fund"), into which the County Fiscal Officer will deposit  
129 the Service Payments and Property Tax Rollback Payments collected with respect to the Parcels  
130 and not required to be distributed to either the School District or Summit County pursuant to  
131 Section 6 of this ordinance. The TIF Fund will be maintained in the custody of the City. The  
132 City may use amounts deposited into the TIF Fund only for the purposes authorized in the TIF  
133 Statutes and this ordinance (as it may be amended). The TIF Fund will remain in existence so  
134 long as the Service Payments and Property Tax Rollback Payments are collected and used for the  
135 aforesaid purposes, after which time the TIF Fund will be dissolved and any surplus funds  
136 remaining therein transferred to the City's General Fund, all in accordance with ORC Section  
137 5709.43.

138  
139 Section 6. Distribution of Funds. Pursuant to the TIF Statutes, the County Fiscal  
140 Officer is requested to distribute all of the Service Payments and Property Tax Rollback Payments  
141 to the City for further deposit into the TIF Fund for payment of costs of the Public Infrastructure  
142 Improvements, including, without limitation, debt charges on any notes or bonds of the City issued  
143 to pay or reimburse costs of those Public Infrastructure Improvements or finance costs for those  
144 improvements or to reimburse the City for costs of those Public Infrastructure Improvements paid  
145 prior to the City's receipt of Service Payments and Property Tax Rollback Payments. All  
146 distributions required under this Section are requested to be made at the same time and in the  
147 same manner as real property tax distributions.

148  
149 Section 7. Further Authorizations. This Council hereby authorizes and directs the  
150 Mayor, the Director of Law, the Director of Finance, or other appropriate officers of the City to  
151 make such arrangements as are necessary and proper for collection of the Service Payments. This  
152 Council further authorizes the Mayor, the Director of Law, the Director of Finance or, or other  
153 appropriate officers of the City to prepare and sign all agreements and instruments and to take  
154 any other actions as may be appropriate to implement this ordinance.

155  
156 Section 8. Filings with Ohio Development Services Agency. Pursuant to Ohio Revised  
157 Code Section 5709.40(I), the Mayor, the Director of Law, the Director of Finance, or any other  
158 appropriate officer of the City is hereby directed to deliver a copy of this ordinance to the Director  
159 of the Ohio Development Services Agency within fifteen days after its effective date. Further, and  
160 on or before March 31 of each year that the tax exemption authorized by Section 3 remains in  
161 effect, the Mayor, the Director of Law, the Director of Finance, or any other authorized officer of  
162 the City is directed to prepare and submit to the Director of the Ohio Development Services Agency  
163 the status report required under Ohio Revised Code Section 5709.40(I).

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Section 9. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC Section 121.22.

Section 10. Effective Date. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason that this ordinance is required to be immediately effective in order to enable the City to timely enter into contracts related to the timely development of the Incentive District and related public infrastructure improvements; wherefore, this ordinance shall be in full force and effect immediately upon its passage.

Passed: 4-24-17

  
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President of Council

Approved: 4-25-17

  
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Clerk of Council


  
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Mayor

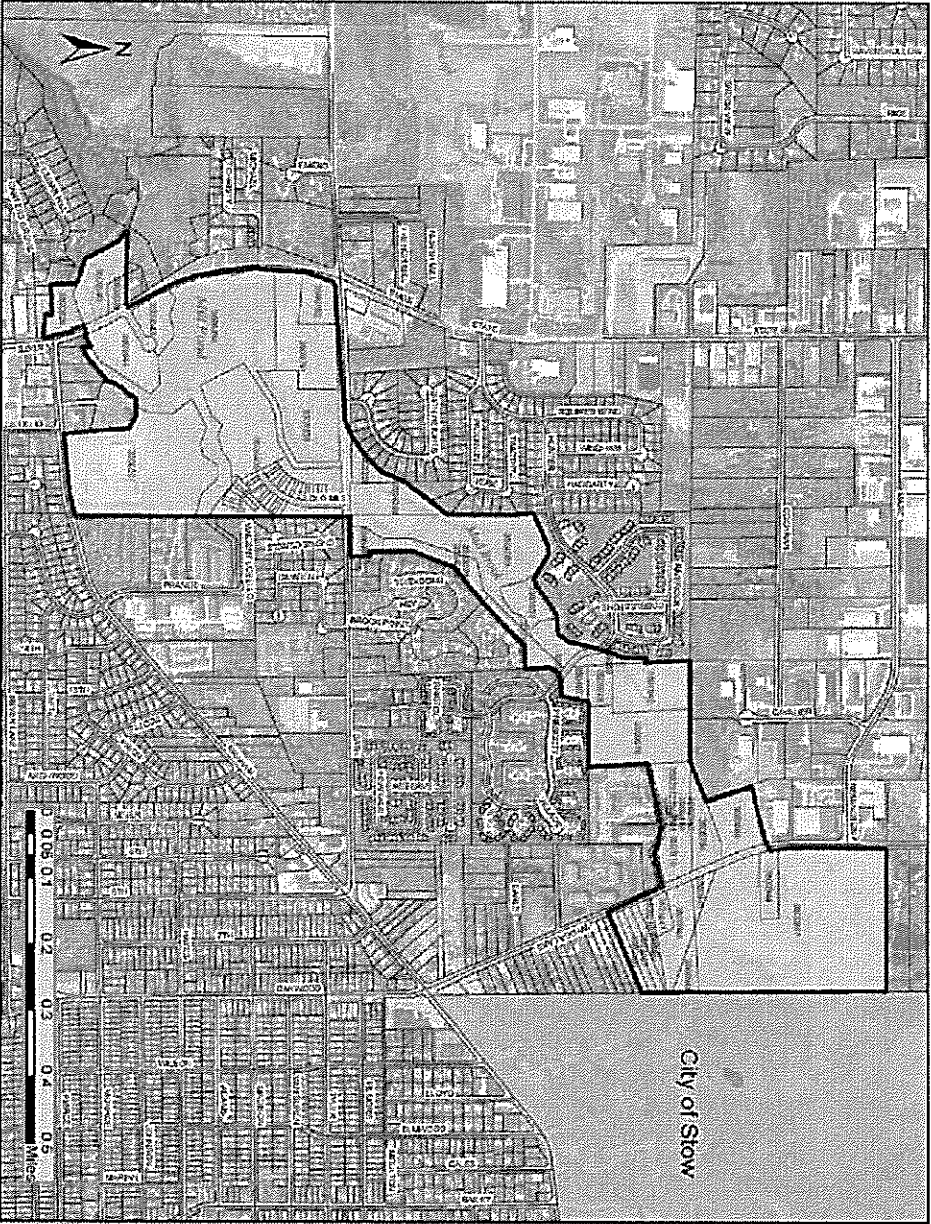
EXHIBIT A  
IDENTIFICATION AND MAP OF THE PARCELS

The enclosed area on the following map specifically identifies and depicts the Parcels and the boundaries of the Incentive District, and constitutes part of this Exhibit A. The following Parcel numbers are as of January 15, 2017, and are included for ease of reference only.

Parcel Numbers:

3505259	3505978	3506512
3503359	3501110	3506513
3504388	3506494	3506514
3503600	3500625	3506515
3503599	3500540	3506516
3504059	3502070	3506517
3506495	3503543	3506518
3506483	3503544	3506519
3500752	3504071	3506520
3500751	3501447	3506521
3506501	3500210	3506522
3500578	3503586	3506523
3506419	3500948	3506524
3502972	3502401	3506525
3501540	3502402	3506526
3502947	3502487	3506527
3502946	3500945	3506528
3502945	3500946	3506529
3502944	3505784	3506530
3502943	3500947	3506531
3502942	3500944	3506532
3502941	3501823	3506533
3506534	3506535	3506536
3506537	3506538	3506539
3506540	3506541	3506542
3506543	3506544	3506545
3506546	3506547	3506548

Incentive District 1



Prepared by the City of Cary/Cary Falls Department of Community Development 11-17-2018

EXHIBIT B  
PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under Section 5709.40(A)(7) of the Ohio Revised Code and that directly benefits or serves parcels in the Incentive Districts and specifically include, but are not limited to, any of the following improvements that will benefit or serve parcels in the Incentive Districts and all related costs of those permanent improvements (including, but not limited to, those costs listed in Section 133.15(B) of the Ohio Revised Code):

- **Stormwater.** Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare, including but not limited to the construction and installation of stormwater sewers along Wyoga Lake Road, Pleasant Meadow Boulevard and Bath Road, and the construction and installation of a regional storm water basin on Pleasant Meadow Boulevard;
- **Parks.** Construction or reconstruction of one or more public parks, including grading, trees and other park plantings, park accessories and related improvements, multi-use trails and bridges, together with all appurtenances thereto, including, without limitation, improvements to parkland and multi-use trails within or proximate to the Incentive District, including but not limited to construction of multi-use paths along Wyoga Lake Road, Hunter Parkway and Bath Road and installation of trail access paths from and along Hunter Parkway;
- **Roadways.** Construction, reconstruction, extension, opening, improving, 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, and all other appurtenances thereto, including but not limited to the construction, reconstruction, improving, grading, draining and resurfacing of, and installation of sidewalks along, Wyoga Lake Road, Pleasant Meadow Boulevard, Hunter Parkway, Bath Road and People Care Park;
- **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, including but not limited to construction and installation of sanitary sewers along State Road near People Care Park and along Wyoga Lake Road, and construction and installation of water line along Wyoga Lake Road;
- **Environmental/Health.** Implementation of environmental remediation measures necessary to enable the Project and the construction of public health , including but not limited to preservation of wetlands and flood plain management in the areas around Mud Brook, dam modifications and improvements, the dredging of Mill Pond, streambank erosion protection and renovation and related environmental studies and remediation;
- **Utilities.** Construction, reconstruction or installation of gas, electric and communication service facilities and all appurtenances thereto;
- **Demolition.** Demolition, including demolition on private property when determined to be necessary for public health, safety and welfare;

- **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, and including but not limited to lighting along Wyoga Lake Road, Bath Road and People Care Park;
- **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, but not limited to, the purchase of parkland; and
- **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.