

**CREATING AN INCENTIVE DISTRICT PURSUANT TO RC SECTIONS 5709.40(C), 5709.42 AND 5709.43, DECLARING IMPROVEMENTS TO CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE, REQUIRING THE OWNERS OF THE IMPROVEMENTS ON SUCH PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, AND PROVIDING FOR THE USE OF SUCH SERVICE PAYMENTS, AND DECLARING AN EMERGENCY.**

WHEREAS, the City and DiGeronimo Development LLC (the “Developer”) have been cooperating to facilitate the purchase of approximately 88 acres of real property commonly known as the “Crowland Property”, and in connection therewith the City and the Developer have entered into a Development Agreement dated June 19, 2018, as amended that certain First Amendment to Development Agreement approved by Resolution No. 5062, approved July 21, 2020; and

WHEREAS, the Developer contemplates that it will use a portion of the Crowland Property (the “Developer’s Parcel”) as described and depicted on Exhibit A attached to this Ordinance, for the construction of a development that will include up to approximately 30 single-family homes in order to increase available housing options within the City (the “Project”), constituting an “Improvement,” as such term is defined in RC Section 5709.40(A), which Improvement this Council, pursuant to RC Section 5709.40(C), may declare to be a public purpose; and

WHEREAS, under RC Section 5709.40(C), Ohio Revised Code, the Improvements to the Developer’s Parcel so declared to be a public purpose may be exempted from real property taxation for a period of up to 30 years; and

WHEREAS, the City has determined that it is necessary and appropriate and in the City’s best interest to provide for the Developer, or the other owners of all or a portion of the Developer’s Parcel from time to time, to make service payments in lieu of taxes with respect to the Developer’s Parcel pursuant to RC Section 5709.42 (the “Service Payments”) to pay a portion of the costs of the Public Infrastructure Improvements described in Section 2 of this Ordinance; and

WHEREAS, the Developer's Parcel comprises less than 300 acres and has a continuous boundary and the City Engineer, as required by R.C. Section 5709.40(A)(5)(f), has certified with respect to the Crowland Incentive District identified on Exhibit A attached to this Ordinance (the "Incentive District") that the existing public infrastructure serving the parcels within the Incentive District is inadequate to meet the development needs of the Incentive District as set forth in the Economic Development Plan for the Incentive District now on file with the Clerk of Council; and

WHEREAS, to assist the Developer with the completion of the Improvements, this Council has determined to create the Incentive District pursuant to RC Section 5709.40(C), the boundaries of which shall be coextensive with the boundaries of the Developer's Parcel, in order to provide funds for the public infrastructure improvements described in Exhibit B attached to this Ordinance (the "Public Infrastructure Improvements"), that once made would benefit or serve the Developer's Parcel; and

WHEREAS, on August 4, 2020, this Council adopted Ordinance 5336 (the "TIF Fund Ordinance") pursuant to RC Section 5709.43 to establish the Brecksville Municipal Public Improvement Tax Increment Equivalent Fund, and further required the Finance Director to create an account within that fund for each TIF Ordinance adopted by this Council pursuant to RC Section 5709.40, which account for this Ordinance shall be designated the Crowland Incentive District Account (the "TIF Account") into which the Service Payments required to be paid pursuant to Section 4 shall be deposited; and

WHEREAS, the Developer's Parcel is located within the boundaries of the Brecksville Broadview Heights City School District (the "BBH School District") and within the service area of the Cuyahoga Valley Career Center ("CVCC", and collectively with the BBH School District, the "School Districts"); and the School Districts have been notified of the City's intent to pass this Ordinance in accordance with RC Sections 5709.40 and 5709.83, as applicable to each; and

WHEREAS, the Board of Education of the BBH School District has approved the exemptions granted by this Ordinance, and the City and the BBH School District have entered into a Second Amended and Restated Compensation Agreement; and

WHEREAS, on September 1, 2020, this Council held a public hearing regarding the consideration of this Ordinance and no owners of property within the proposed Incentive District have requested that their property be excluded from the Incentive District;

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

Section 1. This Council hereby: (i) adopts the Economic Development Plan for the Incentive District now on file with the Clerk of Council, (ii) accepts and adopts the City Engineer's certification to this Council and the City Engineer's findings set forth therein (a) that the public infrastructure serving the Incentive District is inadequate to meet the development needs of the Incentive District as evidenced by the Economic Development Plan and (b) that the Incentive District is less than 300 acres in size and enclosed by a contiguous boundary, (iii) finds and

determines that the Project will place additional demand on the Public Infrastructure Improvements, including, without limitation, Brecksville Road, Miller Road and the I-77/Miller Road interchange, (iv) finds and determines that the City sent written notice of the public hearing regarding this ordinance by first class mail to each owner of real property within the proposed Incentive District at least 30 days prior to such hearing, which notice included a map of the proposed Incentive District as well as the overlay area required by RC Section 5709.40(C)(2), (v) finds and determines that this Council has not received a request from the owner of any real property within any proposed Incentive District to exclude that owner's property from the Incentive District, (vi) finds and determines that notice of this ordinance has been delivered to the Cuyahoga Valley Career Center in accordance with and within the time periods prescribed in RC Sections 5709.40 and 5709.83 and (vii) finds and determines that notice of this Ordinance has been given to Cuyahoga County, Ohio. Pursuant to RC Section 5709.40(C), this Council creates the Incentive District, the boundaries of which are coextensive with the boundaries of, and include, the Developer's Parcel as specifically identified and depicted in Exhibit A attached to this Ordinance.

Section 2. This Council hereby designates the public infrastructure improvements described in Exhibit B attached 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 serve, or that once made will directly benefit or serve, the Developer's Parcel.

Section 3. The life of the Incentive District commences on the earlier of January 1, 2025, or January 1 of the tax year in which at least an aggregate of \$1,000,000 (\$350,000 of assessed value) of Improvements would first appear on the tax list and duplicate of real and public utility property for the Developer's Parcel (or resulting subdivided parcels as hereafter configured, which parcels are referred to herein as the "Parcels") within the Incentive District were it not for the exemption granted in this ordinance and ends on the earlier of (a) 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 RC 5709.40(C) (the "Incentive District Life").

Pursuant to and in accordance with the provisions of RC Section 5709.40(C), this Council hereby declares that the increase in assessed value of the Parcels subsequent to the effective date of this ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in RC Section 5709.40(A)) is a public purpose, with 100% of such Improvement to the Parcels exempt from taxation for the Incentive District Life.

Section 4. As provided in RC Section 5709.42, the owner or owners of the Improvements are hereby required to, and shall make, semi-annual service payments in lieu of taxes (“Service Payments”) to the County Treasurer on or before the final dates for payment of real property taxes. The Service Payments, when distributed to the City by the County Treasurer, shall be deposited in the TIF Account and used for the purposes described in the TIF Fund Ordinance, including without limitation making payments pursuant to the Second Amended and Restated Compensation Agreement with the BBH School District and paying costs of the Public Infrastructure Improvements. This Council hereby authorizes the Mayor, the Finance Director, the Director of Law and other appropriate officers of the City, to provide such information and certifications and to execute and deliver or accept delivery of such instruments as are necessary and incidental to collection of those Service Payments, and to make such arrangements as are necessary and proper for payment of those Service Payments.

Section 5. Pursuant to RC Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this ordinance to the Director of the Development Services Agency of the State of Ohio within fifteen days after its passage. On or before March 31st of each year that the exemption set forth in Section 1 hereof remains in effect, the Mayor or other authorized officer of this City shall prepare and submit to the Director of the Development Services Agency of the State of Ohio the status report required under RC Section 5709.40(I).

Section 6. This Council further hereby authorizes the Mayor, the Law Director, the Finance Director and other appropriate officers of the City, to sign such documents and take such actions as are necessary carry out the purposes of this ordinance. Previous actions taken by those officers, including the delivery of notices of this Ordinance, are hereby ratified.

Section 7. This Council determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed 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 RC Section 121.22.

Section 8. This Council declares this Ordinance to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare. The reason for the emergency is to permit the Developer to proceed immediately with the approval process for and design and construction of Phase I of the Project so that it has the opportunity to commence certain construction activities and create construction and permanent jobs in the City without delay; therefore, this ordinance shall be in full force and effect immediately upon its adoption by this Council and approval by the Mayor, otherwise, from and after the earliest period allowed by law.

PASSED: September 1, 2020

First Reading: \_\_\_\_\_

APPROVED: September 1, 2020

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

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MAYOR

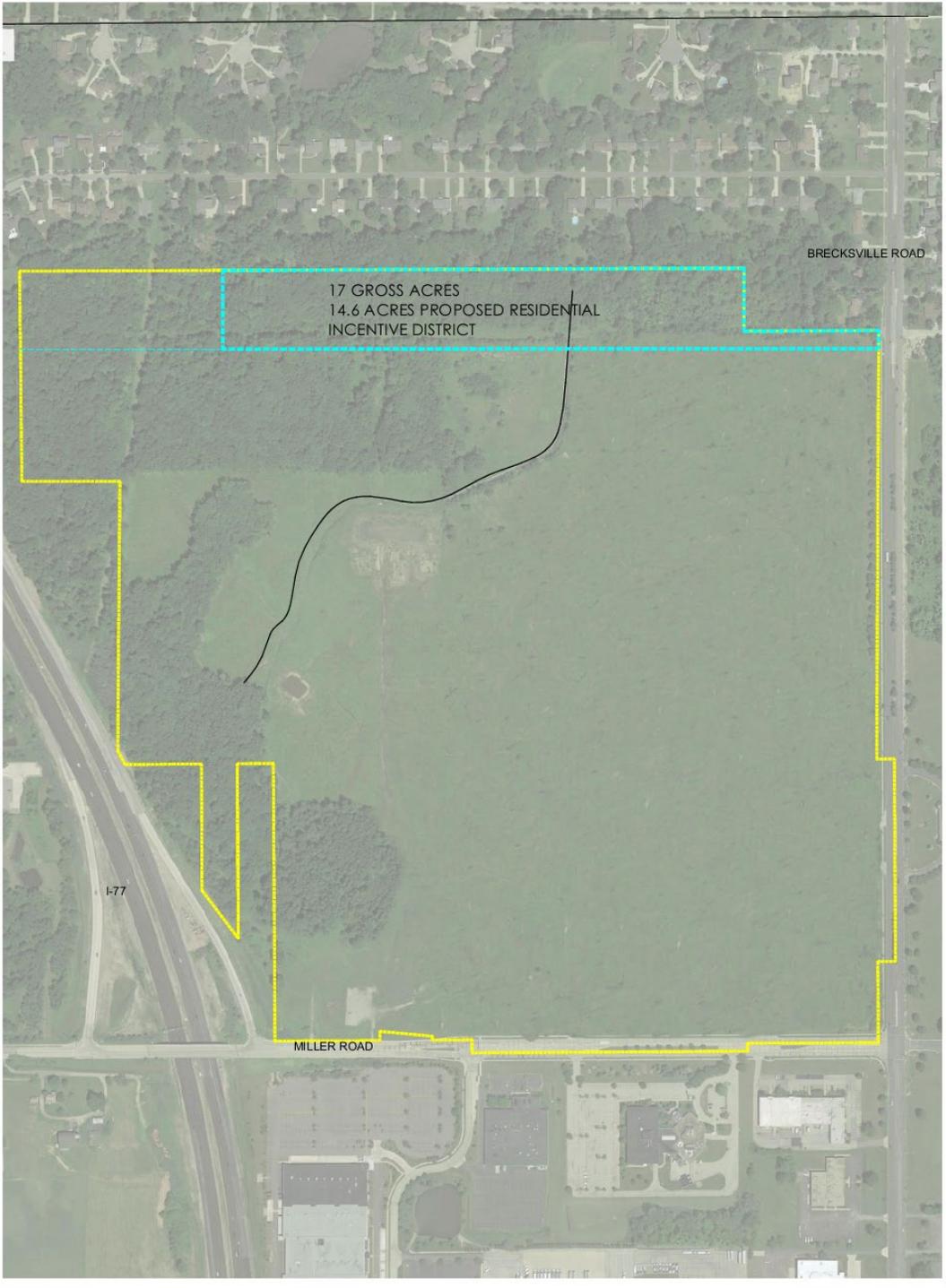
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CLERK OF COUNCIL

## **EXHIBIT A**

### **DEVELOPER'S PARCEL AND MAP OF THE INCENTIVE DISTRICT**

The following parcels of real estate situated in the City of Brecksville, Ohio constitute the Developer's Parcel and are included in the Incentive District shown on the following map (portions of tax parcels 603-20-029, 603-21-022 and 603-20-030):



BRECKSVILLE ROAD

17 GROSS ACRES  
14.6 ACRES PROPOSED RESIDENTIAL  
INCENTIVE DISTRICT

I-77

MILLER ROAD

EXHIBIT B

The Public Infrastructure Improvements consist of any “public infrastructure improvement” defined under RC 5709.40(A)(8) that directly benefits or serves the Parcels and specifically include, but are not limited to, the following improvements that will directly benefit the Parcels and all related costs of those permanent improvements (including, but not limited to, those costs listed in RC 133.15(B)):

- **Roadways and Bridges**, including, without limitation, construction of public roads and bridges on or adjacent to the Parcels, including without limitation improvements to Brecksville Road, Miller Road, the I-77/Miller Road interchange and future roadways within or connecting Brecksville Road or Miller Road to the roadways within the Incentive District.
- **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 or utilities constructed within rights of way adjacent to the Parcels or benefitting the Parcels), 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 those associated with improvements described in “Roadways and Bridges” above.
- **Stormwater**. Construction, reconstruction, relocation, modification and installation of stormwater and flood remediation projects and facilities, both for storm water quantity and quality, including 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, together with all appurtenances thereto, including, without limitation, the parks to be located on the Parcels and owned by the City.

- **Streetscape/Landscape/Signage.** Construction or installation of streetscape and landscape improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described in "Roadways and Bridges" above and signage related to the project.
- **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.
- **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.