

TEMPORARY ORDINANCE NO. 33-12

PERMANENT ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE AGGREGATE PRINCIPAL AMOUNT OF ONE HUNDRED EIGHTY-FIVE THOUSAND DOLLARS (\$185,000.00) TO PAY COSTS OF ACQUIRING AND IMPROVING CERTAIN REAL PROPERTY, TOGETHER WITH ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. 21-11 passed December 5, 2011, a Note in the amount of \$205,000, dated February 1, 2012, was issued for the purpose stated in Section 1, to mature January 31, 2013 (the "Outstanding Note"); and

WHEREAS, this Council finds and determines that the City should retire the Outstanding Note with the proceeds of the Notes described in Section 3 and other funds available to the City; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lancaster, Fairfield County, Ohio, that:

SECTION 1. It is determined that the City's acquisition and improvement of certain real property is necessary to provide for the productive economic development of that real property, and it is further determined that it is in the best interest of the City that the real property be used for productive economic development.

SECTION 2. It is necessary to issue and this Council determines that notes in the aggregate principal amount of \$185,000 (the "Notes") shall be issued to retire, together with other funds available to the City, the Outstanding Note. The Notes shall bear interest at the rate of 3% per year (computed on a 360 day per year basis), payable at maturity and until the principal amount is paid or payment is provided for.

SECTION 3. The principal of and interest on the Notes shall be payable in lawful money of the United States of America and shall be payable, without deduction for services of the City's paying agent, at the office of Treasurer of the City (the "Paying Agent"). The Notes shall be dated January 31, 2013 and shall mature January 31, 2014. The Notes shall be prepayable without penalty or premium at the option of the City at any time prior to maturity as provided in this ordinance. Prepayment prior to maturity shall be made by deposit with the Paying Agent of the principal amount of the Notes together with interest accrued thereon to the date of prepayment. The City's right of prepayment shall be exercised by mailing a notice of prepayment, stating the date of prepayment and the name and address of the Paying Agent, by certified or registered mail to the original purchaser of the Notes not less than seven days prior to the date of that deposit, unless that notice is waived by the original purchaser of the Notes. If money for prepayment is on deposit with the Paying Agent on the specified prepayment date following the giving of that notice (unless the requirement of that notice is waived as stated above), interest on the principal amount prepaid shall cease to accrue on the prepayment date, and upon the request of the Auditor the original purchaser of the Notes shall arrange for the delivery of the Notes at the designated office of the Paying Agent for prepayment and surrender and cancellation.

SECTION 4. The Notes shall be signed by the Mayor and Auditor, in the name of the City and in their official capacities, provided that one of those signatures may be a facsimile. The Notes shall be issued in the denominations and numbers as requested by the original purchaser and approved by the Auditor, provided that the entire principal amount may be represented by a single note. The Notes shall not have coupons attached, shall be numbered as determined by the Auditor and shall express upon their faces the purpose, in summary terms, for which they are issued and that they are issued pursuant to this ordinance.

SECTION 5. The Notes are offered at par and accrued interest, if any, to the Treasury Investment Board of the City. Notes not purchased by the Treasury Investment Board of the City shall be sold at not less than par at private sale by the Auditor in accordance with law and the provisions of this ordinance. The Auditor shall cause the Notes to be prepared, and have the Notes signed and delivered, together with a true transcript of proceedings with reference to the issuance of the Notes if requested by the original purchaser, to the original purchaser upon payment of the purchase price. The Mayor, the Auditor, the Clerk of Council and other City officials, as appropriate, are each authorized and directed to sign any transcript certificates, financial statements and other documents and instruments and to take such actions as are necessary or appropriate to consummate the transactions contemplated by this ordinance.

SECTION 6. The proceeds from the sale of the Notes shall be paid into the proper fund or funds and those proceeds are appropriated and shall be used, together with other funds available to the City, to retire the Outstanding Note.

SECTION 7. The par value to be received from the sale of bonds or of any notes issued to retire the Notes, and any excess funds resulting from the issuance of the Notes, to the extent necessary, shall be used to pay the principal of and interest on the Notes at maturity and are pledged for that purpose.

SECTION 8. The City hereby pledges its Non-tax Revenues for the payment of the Notes and covenants that the City shall appropriate sufficient Non-tax Revenues (including the proceeds from the sale of bonds or notes to be used to pay principal of or interest on the Notes) to pay the principal of and interest on the Notes when due. For purposes of this paragraph, "Non-tax Revenues" means all money of the City that is not raised by taxation including, but not limited to: (i) grants from the United States of America and the State of Ohio lawfully available for the purpose; (ii) payments in lieu of taxes now or hereafter authorized by the laws of the State of Ohio and lawfully available for the purpose; (iii) fines and forfeitures that are deposited into the City's general fund; (iv) fees that are deposited into the City's general fund; (v) investment earnings on funds of the City that are lawfully credited to the City's general fund; (vi) proceeds from the sale of assets (including the real property) that are deposited in the City's general fund; (vii) rental income that is deposited in the City's general fund; (viii) gifts and donations that are deposited in the City's general fund; and (ix) charges for services and payments received in reimbursement for services that are deposited in the City's general fund.. The Notes do not represent or constitute a debt, or pledge of the faith and credit, of the City, and are payable solely from the Non-tax Revenues of the City. The owners of the Notes have no right to have any excise or taxes levied by the City or the State of Ohio or any subdivision thereof for the payment of the Notes.

SECTION 9. The City desires to retain Benesch, Friedlander, Coplan & Aronoff LLP ("Benesch") as bond counsel to the City in connection with the issuance and sale of the Notes in accordance with the terms and conditions provided in the engagement letter from Benesch now on file with the Clerk of Council. That engagement letter is approved, and the Mayor is authorized to sign

and deliver, in the name of and on behalf of the City, the acceptance of that engagement letter in substantially the form now on file with the Clerk of Council with such changes therein that are not materially adverse to the interests of the City and are approved by the Mayor. The signing and delivery of the engagement letter shall be conclusive evidence that any changes therein are not materially adverse to the interests of the City and have been approved by the Mayor.

SECTION 10. It is determined that all acts and conditions necessary to be done or performed by the City or to have been met precedent to and in the issuing of the Notes in order to make them legal, valid and binding special obligations of the City have been performed and have been met, or will at the time of delivery of the Notes have been performed and have been met, in regular and due form as required by law; that the Non-tax Revenues (as described in Section 8) of the City are pledged for the timely payment of the debt charges on the Notes; and that no statutory or constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Notes.

SECTION 11. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance, and that all deliberations of this Council and of any committees that resulted in those formal actions, were taken in open meetings in compliance with the law.

SECTION 12. This ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes, which is necessary to enable the City to timely retire the Outstanding Notes and thereby preserve its credit; wherefore, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Passed: \_\_\_\_\_ after \_\_\_\_\_ reading. Vote: Yeas \_\_\_\_\_ Nays \_\_\_\_\_

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Clerk: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Offered by: \_\_\_\_\_

Second by: \_\_\_\_\_

Requested by Finance Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on \_\_\_\_\_, 20\_\_\_\_\_ the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

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Clerk of Council