

TEMPORARY RESOLUTION NO. 99-23

PERMANENT RESOLUTION NO. 98-23

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A PRE-ANNEXATION AGREEMENT WITH METRO DEVELOPMENT FOR PARCEL NUMBER 0140100400, CONSISTING OF 8.9 +/- ACRES IN GREENFIELD TOWNSHIP, AND TO DECLARE AN EMERGENCY

WHEREAS, Metro Development's ("Petitioner") property consisting of 8.9 +/- acres in Greenfield Township, Fairfield County, Ohio, which area is generally described in the legal description and survey attached as Exhibit 1 is the subject of an annexation Petition to be filed imminently with the Fairfield County Board of County Commissioners ("BCC"); and

WHEREAS, a proposed Pre-Annexation Agreement has been negotiated between the City and the Petitioner and is attached hereto as Exhibit 2; and

WHEREAS, said property is contiguous to the City, and would benefit from municipal services provided by the City, including water, sanitary sewer, natural gas, stormwater, sanitation, police, and fire/EMS services; now, therefore,

BE IT RESOLVED BY COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO

SECTION 1. That the Pre-Annexation Agreement in the form presently on file with the Clerk of Council is hereby approved and authorized with changes therein not inconsistent with this Resolution and not substantially adverse to this City and which shall be approved by the Mayor. That the Mayor, for and in the name of the City, is hereby authorized to execute the Agreement, provided further that the approval of changes thereto by the Mayor, their character not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This Council further authorizes the Mayor for and in the name of the City, to execute any amendments to the Agreement, which amendments are not inconsistent with this Resolution and not substantially adverse to this City.

SECTION 2. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City and for the further reason that this resolution must be enacted to meet the annexation timeline imposed by the Ohio Revised Code; wherefore, this ordinance shall take effect and be in force immediately upon its adoption and approval by the Mayor.

Passed: 9/25/23 after 1st reading. Vote: Yeas 9 Nays 0

Date Approved: 9/25/23

Clerk: Jessie Lee Wandy

Offered by: Paul M. Ant

Second by: Mary R. Turner
Requested by Law Committee

David A. Lee
President of Council

David L. Schey
Mayor

**PROPOSED ANNEXATION OF 8.9 ACRES +/-
FROM GREENFIELD TOWNSHIP
TO CITY OF LANCASTER**

Situated in the State of Ohio, County of Fairfield, Township of Greenfield, Section 27, Township 15, Range 19, and being part of that 9.06 acre tract of land as conveyed to JB 2750, LLC, of record in Official Record 1670, Page 1426 and being PID 0140100400 and more particularly described as follows:

Beginning at the southeasterly corner of Reserve "B" of a subdivision entitled "General Sherman Junior High School", of record in Plat Cabinet 3, Slot 46, being a point in the westerly line of a subdivision entitled River Valley Highlands Section 4, Phase 3, of record in Plat Cabinet 1, Slot 190 and being a point in the existing City of Lancaster Corporation Line, of record in Official Record 1463, Page 34, Ordinance Number 25_07, Resolution Number 6.12.19.B and of record in Dedication Record 6, Page 211, Ordinance Number 09_92, Resolution Number 91.12.17.D;

Thence, South 0°00'00" East, with said existing City of Lancaster Corporation line, the westerly line of said River Valley Highlands Section 4, Phase 3 and with the westerly line of a subdivision entitled Hubbard Industrial Park, of record in Plat Cabinet 1, Slot 170, and with the westerly line of a 4.8034 acre tract, as conveyed to SCF RC Funding III, LLC, of record in Official Record 1739, Page 3947, a distance of 1627.93 feet to a point in the northerly right of way line of North Columbus Street;

Thence, North 75°00'00" West with said northerly right of way line, a distance of 198.99 feet to a point in the easterly line of a 1.117 acre tract as conveyed to Coughlin Properties of Lancaster, LLC, of record in Instrument Number 202100028733;

Thence, with the easterly line of said 1.117 acre tract and the perimeter of an 11.769 acre tract as conveyed to Coughlin Properties of Lancaster, LLC, of record in Instrument Number 202100028733, the following courses:

North 0°00'00" East, a distance of 851.78 feet to a corner of said 11.769 acre tract;

North 89°30'00" West, a distance of 110.04 feet to a corner of said 11.769 acre tract;

North 0°00'00" East, a distance of 723.69 feet to the northeasterly corner of said 11.769 acre tract and being a point in the southerly line of Lot 1 of said "General Sherman Junior High School", and being a point in said existing City of Lancaster Corporation Line;

Thence, South 89°59'59" East, with said Existing City of Lancaster Corporation Line and the southerly line of said Lot 1, a distance of 302.25 feet to the **Point of Beginning** and containing 8.9 acres of land more or less, the total perimeter of this proposed annexation is 3814.68 feet of which 1930.18 are contiguous with the City of Lancaster giving 51% contiguity;

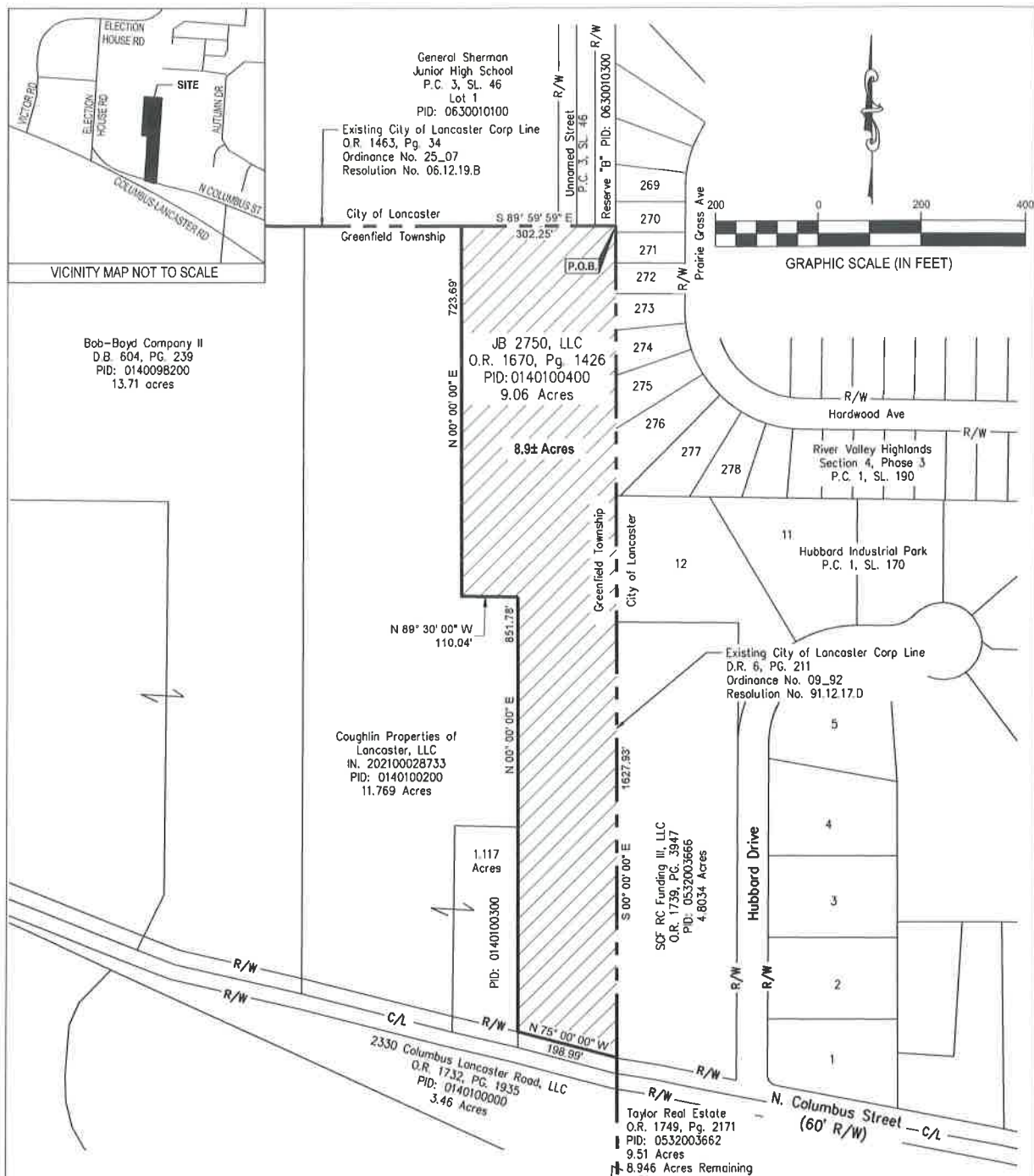
Subject to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of recording pertaining to the above described tract of land.

This description was prepared from existing record information and is for annexation purpose only.

CESO Inc

Jeffrey A. Miller, PS
Registered Surveyor No. 7211

Date

**CONTIGUITY NOTE:**

The total perimeter of annexation area is 3814.68 feet, of which 1930.18 feet are contiguous with the City of Lancaster, giving 51% contiguity.

This exhibit was prepared from record information from the Fairfield County Engineer, Recorder and Auditor, and is not intended for the transfer of real property.

LEGEND

- Exist. City of Lancaster Corp. Line
- Exist. Parcel Line
- Prop. Annexation Corp. Line
- Prop. Area to be Annexed (8.9± ACRES)

JEFFREY A. MILLER, OHIO P.S. NO. 7211

DATE

Drawing Title:

1

Project Number: 762826
Scale: 1" = 200'
Drawn By: ABP
Checked By: ALB
Date: 7/14/2023
Issue:

Proposed Annexation of 8.9± Acres From Greenfield Township To the City of Lancaster

8.9± ACRES

State of Ohio, Fairfield County, Greenfield Township
Section 27, Township 15, Range 19

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PRE-ANNEXATION AGREEMENT

This Agreement is entered into by and between the City of Lancaster, Ohio (hereinafter "City"), and Metro Development II LLC (hereinafter "Developer") on the last date set forth below.

WITNESSETH

WHEREAS, Developer owns or controls by contract approximately 12.01+/- acres of real property in Greenfield Township, Fairfield County, Ohio, which area is generally described in the legal description and survey attached hereto as Exhibit A (hereinafter referred to as the "Property"); and

WHEREAS, such property is contiguous to the City, and would benefit from municipal services provided by the City, including water, sanitary sewer, stormwater, sanitation, gas, police, and fire/EMS services; and

WHEREAS, the City can provide such municipal services to the Property, if the Property is annexed to the City; and

WHEREAS, the Developer wishes to annex its Property to the City, and to develop the site for a multi-family residential development; and

WHEREAS, the Property is currently situated within Greenfield Township; and

WHEREAS, the parties agree that it is in their mutual interest during the annexation process to enter into this Agreement for the development of the Property for the mutual benefit of the Developer and the City; and

WHEREAS, the City and Developer wish to address these issues as set forth below.

NOW THEREFORE, in consideration of the mutual benefits presented by an annexation of Developer's Property into the City, it is hereby agreed by and between the parties as follows:

- 1. Annexation Petition** - The Developer will file a petition for annexation of the Property, to the City, in reliance upon the other mutual promises and terms set forth herein. The annexation process shall be an "Expedited Type II" annexation as provided in Ohio Revised Code ("ORC") Section 709.023.
- 2. Easements** - The Developer covenants and agrees that easements will be needed for the constructions, installation, and maintenance of all City utilities which will service the Property. The specific location and width of such easements have not been determined at the time of execution of this Agreement. However, upon the City's determination of the utility easements necessary, the Developers will grant such easements to the City in exchange for utility services.

3. **Service Resolution** - Pursuant to and in accordance with the ORC, the City agrees to enact, prior to twenty (20) days after the date of filing the annexation petition with the Board of County Commissioners of Fairfield County, Ohio (the "Commissioners"), the appropriate resolution of service (the "Service Resolution") stating that the services described in Section 3 of this Agreement will be provided to the Property upon annexation. The Service Resolution, once adopted, shall be immediately certified and filed with the Clerk of the Commissioners. In the event that the Commissioners approve the annexation petitions, the City shall accept the annexation of the Property by emergency ordinance at the next regular meeting following County approval and following the filing of a copy of the record with the Clerk of the City and laying it before Council (ORC Section 709.04), unless the Developer notifies the City that it wants to delay acceptance of the annexation in accordance with Section 4 hereof. The City also agrees to provide all reasonable assistance requested by the Developer in pursuing the annexation. It is not expected that there will be any legal challenge to the Commissioners' approval of the annexation, or appeal of the Commissioners' approval of the annexation; however, if such a challenge occurs, the Developer may, at its sole option, choose to terminate this Agreement within thirty (30) days of: (i) the denial of the annexation by the Commissioners; or (ii) the filing of an appeal of the decision of the Commissioners to approve the annexation or of any other legal or administrative action seeking to overturn the Commissioners' approval. Should the Developer elect to terminate this Agreement as set forth in this paragraph, this Agreement shall immediately become null and void and no party shall have any further obligations to the other.

4. **Services –**

- A. **Sanitary Sewer Services:** The City covenants and agrees that it has available capacity to provide sanitary sewer service to the Property. It shall be the obligation of the Developer to construct or cause to be constructed the extensions and/or connections to the existing public sanitary sewer main at its sole expense. All sewer lines shall be installed pursuant to plans and specifications approved by the City Engineer in accordance with the City's usual and customary requirements. The City and the Developer will cooperate and work in good faith to secure any necessary easement for such extensions, including any necessary, off-site extensions. It is expressly acknowledged and understood that costs and fees for water connections, tap and capacity/user fees shall be borne by the Developer at applicable standard rates/schedules of the City.
- B. **Water Services:** The City covenants and agrees that has available capacity to provide potable water in sufficient quantities to the Property. It shall be the obligation of the Developer to construct or cause to be constructed the extensions and/or connections to the existing public water lines at its sole expense. All water lines shall be installed pursuant to plans and specifications approved by the City Engineer in accordance with the City's usual and customary requirements. The City and the Developer will cooperate and work

in good faith to secure any necessary easement for such extensions, including any necessary, off-site extensions. It is expressly acknowledged and understood that costs and fees for water connections, tap and capacity/user fees shall be borne by the Developer at applicable standard rates/schedules of the City.

C. Natural Gas Services: The City covenants and agrees that it has available capacity and public natural gas service lines in proximity to the Property. City agrees to provide natural gas service to the entire Property upon annexation. The alignment through the proposed development is undetermined at this time, but Developer and City shall work together, as the development progresses, to ensure proper looping and connectivity can be supplied to the Property. Upon review and approval by City of natural gas service, City agrees to determine and provide public natural gas line connection points for the Property. City shall be solely responsible for the cost and expense of the development, design, and construction of the public natural gas line system to provide natural gas service to the Property in compliance with Lancaster Codified Ordinance and City design standards. It is expressly understood that costs of connection and tap and capacity/user fees shall be borne by the Developer, at applicable standard rates/schedules of the City.

D. Stormwater Services: The City covenants and agrees that it has public storm water systems in proximity to the Property. Upon review and approval by City of the necessary public storm water facilities, City agrees to determine and provide public storm water system connection points for the Property, but it shall be the Developer's sole cost and responsibility to connect to these locations, as approved by the City. City is amenable to either a regional storm water facility or individual storm water control facilities within each particular development of the Property. Any proposed development will require retention/detention facilities that comply with City's detention policy. Due to the size of the Property, it will also have to comply with all of the requirements of the Ohio EPA Construction General Permit in effect at the time the Property is developed. Developer is solely responsible for the cost and expense of the development, design, and construction of the public storm water facilities to provide storm water service to the Property in compliance with Lancaster Codified Ordinance and City design standards and OEPA permit requirements. The public storm water system constructed by Developer will have sufficient capacity to serve the Property and its proposed development subject to the conditions stated above. It is expressly acknowledged and understood that costs and fees for storm water connections and tap fees shall be borne by the Developer at applicable standard rates/schedules of the City.

E. Sanitation Services: The City covenants and agrees that it will provide sanitation service to the Property upon Developer request. It is anticipated that dumpsters will be placed at various locations within each designated area. Developer shall comply with Lancaster Codified Ordinance and City standards regarding dumpster locations. It is expressly understood that costs associated

with sanitation services shall be borne by the Developer, at applicable standard rates/schedules of the City.

F. Police Services: The City covenants and agrees that it will provide Police services to the Property upon annexation. In order to provide necessary Police services in an existing high traffic density area, Developer shall construct sufficient entry points to facilitate emergency vehicle access and response.

G. Fire/EMS Services: The City covenants and agrees that it will provide Fire/EMS services to the Property upon annexation. In order to provide necessary Fire/EMS services in an existing high traffic density area, Developer shall construct sufficient entry points to facilitate emergency vehicle access and response.

5. **Zoning** - The Developer's intended use of the Property is that of multi-family residential development with 240 multi-family units as shown on the Development Concept attached hereto as Exhibit B (the "Development Concept"). The Developer has determined to submit and seek zoning for Residential Multi-Family District (RM) designation of the Property consistent with such intended use.

The City agrees that, upon filing of the annexation petition for the Property, it will expeditiously process contemporaneously filed applications for rezoning the Property and for the Preliminary Develop Plan. The City's planning staff and administration agree to actively support the rezoning application and the Preliminary Develop Plan so long as it is consistent with the Development Concept attached hereto in order that such documents may be presented to City Council for final approval, immediately following approval of the annexation petition by the Commissioners and acceptance thereof by the City Council, so that the rezoning can be effective at the earliest time permitted by law. Upon the written request of the Developer on behalf of the petitioners, the City shall delay acceptance of the annexation until legislative approval of the rezoning is accomplished or can be accomplished contemporaneously with the acceptance of the annexation. If, for any reason, the rezoning cannot be accomplished substantially in accordance with the provisions of this paragraph (or as it may be modified in a manner acceptable to the Developer) and/or the rezoning is referred or defeated for any reason, and/or a building moratorium or other ordinance, resolution or rule is enacted by the City that would, in the opinion of the Developer, adversely affect Developer's intended use of the Property, the City agrees, at the Developer's request, not to accept the annexation by allowing the 120-day acceptance period to expire, and thus, rejecting the annexation of the Property and Developer may, its option, terminate this Agreement. If (i) the annexation approval occurs prior to or other than concurrently with the legislative approval of the rezoning and the rezoning is subsequently not approved substantially in accordance with this paragraph (or as it may be modified in a manner acceptable to the Developer), (ii) the annexation approval is referred to a vote of the electorate, or (iii) a building moratorium or any other ordinance, resolution or rule is enacted or adopted by the City that would, in the opinion of the

Developer, adversely affect Developer's intended use of the Property, the City agrees, at the request of the Developer: (a) to reconsider the ordinance accepting the annexation and rescind, repeal and reject the annexation approval within twenty (25) days of the date of the disapproval of the rezoning, referral to a vote of the electorate, or the enactment of the building moratorium or other ordinance, resolution or rule; or (b) to detach/de-annex from the City all or part of the Property or not oppose any petition to detach/de-annex all or part of the Property and the Developer may, at its option, terminate this Agreement.

6. **Traffic Improvements** - Developer shall have a Traffic Impact Study performed to evaluate the impacts of the proposed development of the Property to the roadway system. City will establish the scope and requirements of the Traffic Impact Study and the study area. Developer must construct, at Developer's expense, all public infrastructure traffic improvements recommended as a result of said study. Any public infrastructure traffic improvements shall be built to City guidelines and standards.
7. **Community Reinvestment Area ("CRA")** - The parties agree to enter into a CRA agreement upon the following terms: CRA agreement will provide a 15-year, 100% property tax exemption for each building constructed on the Property on the condition that 10% of the residential units are rented to tenants at or below 60% of the area median income ("AMI") and 10% of the residential units are rented to tenants at or below 80% of AMI for which the annual rent charged complies with affordable rents at 60% and 80% AMI as defined by the U.S. Department of Housing and Urban Development (HUD). Developer shall provide accurate rent rolls to City annually to verify compliance with this tax incentive.
8. **Notices** - Notices under this Agreement shall be in writing to the Developer and its attorney and to the City via the City Law Director at the addresses listed below.

To Developer:

Metro Development II LLC
Attention: Joe Thomas
470 Olde Worthington Road, Suite 100
Westerville, OH 43082
Email: jthomasjr@drkmetro.com

With a copy to:

Jill S. Tangeman, Esq.
52 East Gay Street
Columbus, OH 43215
Email: jstangeman@vorys.com

To the City:

Law Director & City Prosecutor
City of Lancaster
136 W. Main Street
PO Box 1008
Lancaster, Ohio 43130
Email: slhall@ci.lancaster.oh.us

9. Miscellaneous -

- A. The Developer agrees to provide City with a minimum of Forty (40) feet of dedicated roadway/right of way from the centerline along existing N. Columbus Street upon successful annexation and establishment of zoning with the City.
- B. The City agrees to process the contemplated establishment of zoning for the proposed development on a parallel time frame with the planned annexation, within the statutory time frame provided by Ohio law for such annexation. The parties specifically contemplate the passage of the Ordinance to establish zoning within the same session as the City's Council meeting to finally accept annexation of the Property.
- C. This Agreement represents the entire agreement between the parties. If a dispute arises, the Courts of Fairfield County, Ohio shall have jurisdiction to resolve any dispute unless both parties expressly agree otherwise in writing.
- D. No modifications, discussions or alterations from the terms included herein shall be considered effective unless as made in writing and signed by all parties.
- E. This Agreement shall be binding upon the parties hereto and their respective transferee, heirs and/or assigns.
- F. It is expressly understood that time is of the essence in doing and performing all things to be done under the terms of this Agreement.

10. Representations and Warranties - The parties make each of the following representations and warranties as of the effective date of this Agreement. These representations and warranties are given as partial consideration for and as a material inducement to the execution of this Agreement and each shall survive the execution, delivery and performance of this Agreement.

- A. Developer's Warranty regarding Power and Authority. Developer warrants and represents that it is duly organized, validly existing and in good standing under the laws of the state of Ohio and has the capacity to enter into this Agreement. Each person executing this Agreement on Developer's behalf represents and warrants that he or she has full power and authority to do so and to deliver and

perform this Agreement and all transactions contemplated by this Agreement without the consent of any additional persons or entities.

- B. City's Warranty regarding Power and Authority.** The City warrants that it has the power, authority and capacity to enter into, and to deliver and perform this Agreement and all transactions contemplated by this Agreement without the consent of any additional persons, boards or any other group or entity. Each person executing this Agreement on behalf of the City represents and warrants that he or she has full power and has been authorized to do so by appropriate actions by the governing body of the City.
- C. Valid and Binding.** Each party represents and warrants that this Agreement creates a valid, binding and enforceable obligation and that this Agreement is enforceable against the warranting party in accordance with its terms.

(Signature Pages To Follow)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
by their duly authorized representatives this _____ day of _____, 20__.

CITY OF LANCASTER, OHIO

APPROVED AS TO FORM FOR THE CITY

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

STATE OF OHIO)
) SS:
COUNTY OF FAIRFIELD)

On this _____ day of _____, 20__, before me a Notary Public personally
appeared Mayor David L. Scheffler, the authorized representative of the City of Lancaster, Ohio,
and acknowledged the execution of the foregoing instrument, and that the same is his voluntary
act and deed on behalf of the City of Lancaster, Ohio.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official
seal on the date and year aforesaid.

Notary Public

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
by their duly authorized representatives this _____ day of _____, 20__.

DEVELOPER

METRO DEVELOPMENT II LLC

By: _____

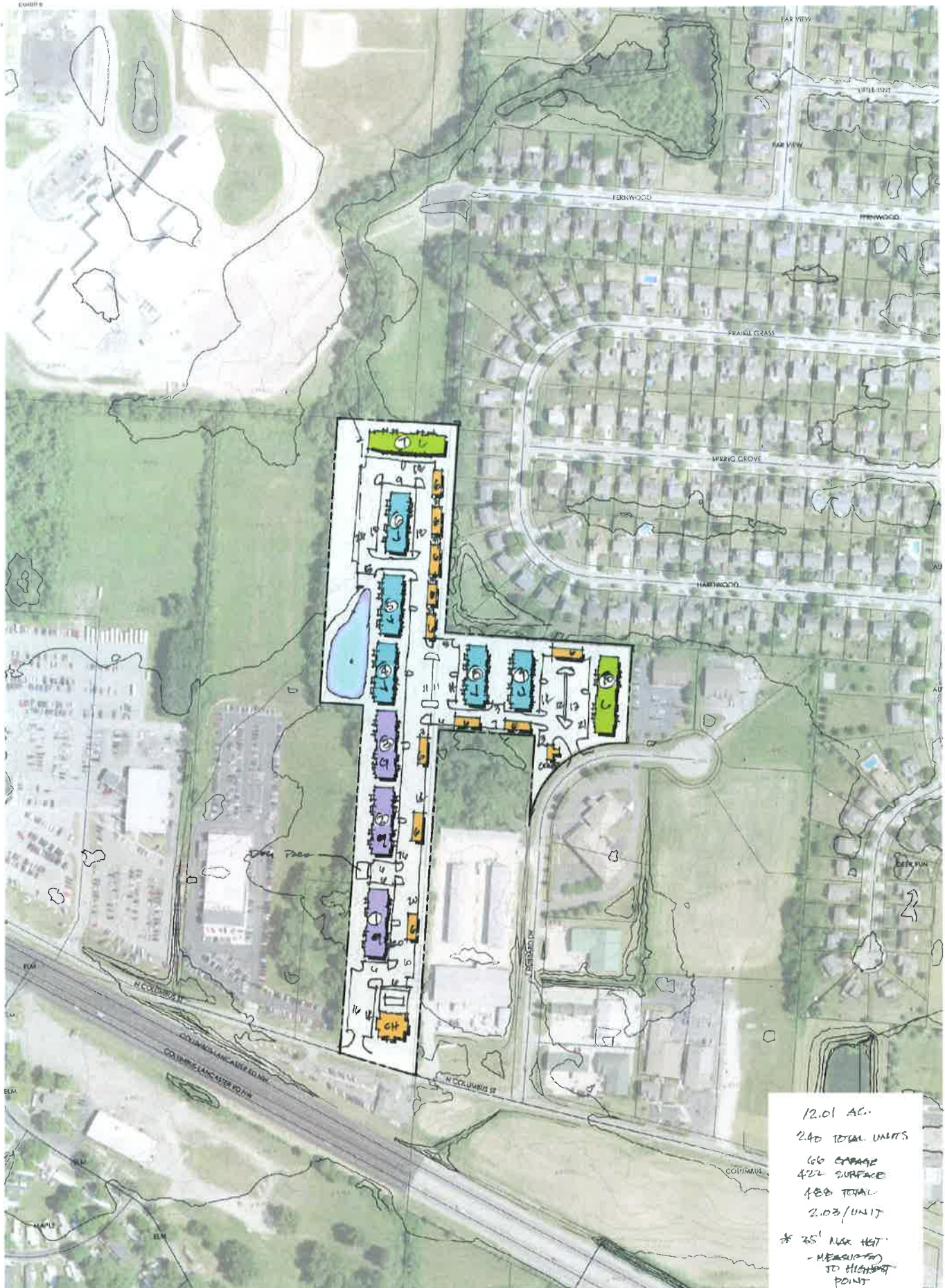
Its: _____

STATE OF OHIO)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20__, before me a Notary Public
personally appeared _____, the authorized representative of Metro
Development II LLC and acknowledged the execution of the foregoing instrument, and that the
same is his voluntary act and deed on behalf of Metro Development II LLC.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official
seal on the date and year aforesaid.

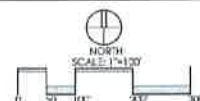
Notary Public



12.01 AC.
 240 TOTAL UNITS
 66 GARAGE
 422 SURFACE
 488 TOTAL
 2.03/UNIT
 * 35' MAX HEIGHT
 - MEASURED TO HIGHEST
 POINT

SITE PLAN

HUBBARD DR
 PREPARED FOR METRO DEVELOPMENT
 DATE: 7.28.23



Faris Planning & Design
 LAND PLANNING * LANDSCAPE ARCHITECTURE

4574 COLUMBUS
 Hialeah, FL 33015
 (305) 457-1111
 www.farisplanninganddesign.com



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FROM GREENFIELD TOWNSHIP
TO CITY OF LANCASTER**

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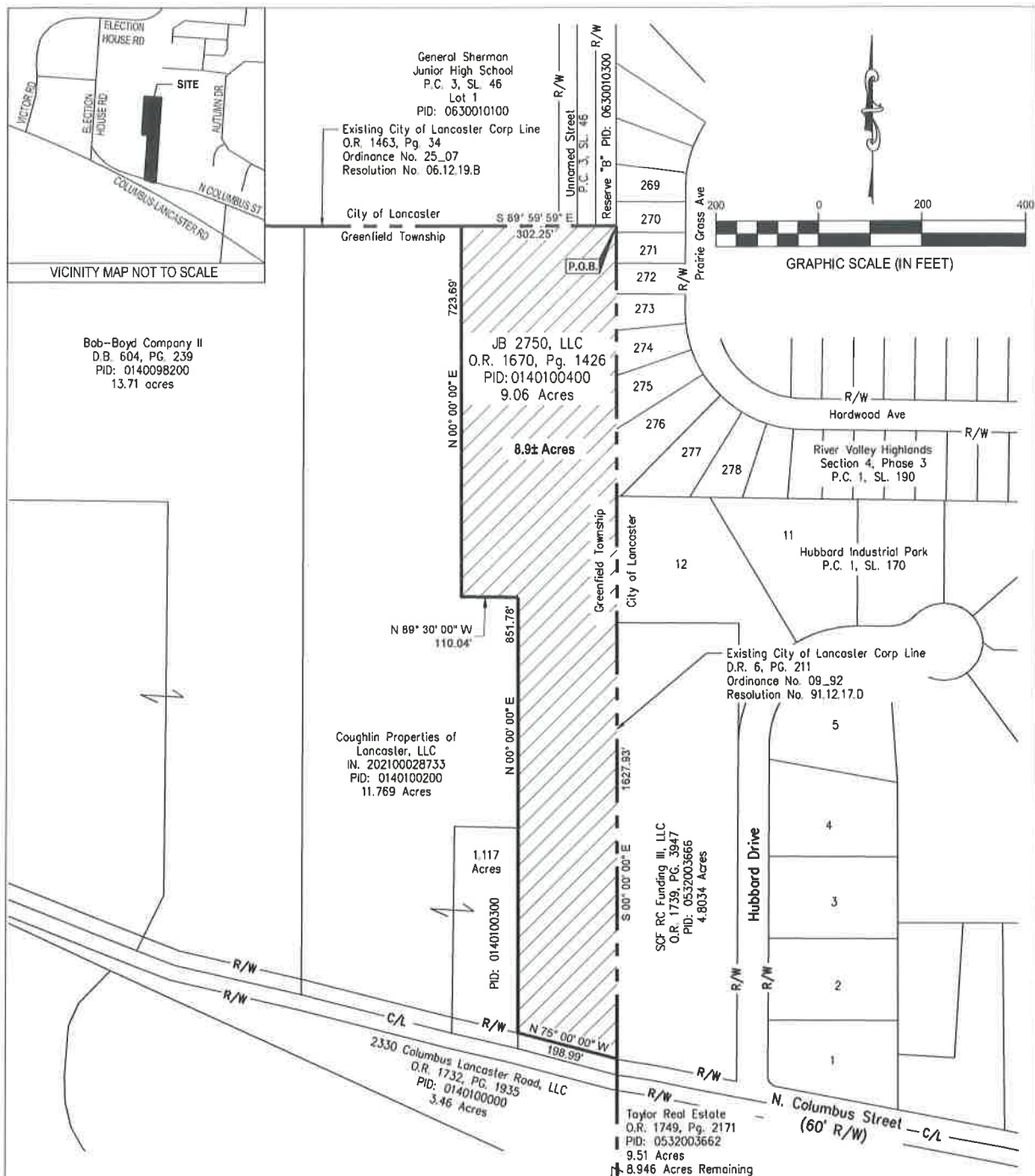
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CESO Inc

Jeffrey A. Miller, PS
Registered Surveyor No. 7211

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