

TEMPORARY ORDINANCE NO. 22-23

PERMANENT ORDINANCE NO. 22-23

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN THE MAXIMUM PRINCIPAL AMOUNT OF FIVE HUNDRED FORTY THOUSAND DOLLARS (\$540,000.00), IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE COSTS OF THE RENOVATION OF AN EXISTING BUILDING FOR USE BY THE CITY'S MUNICIPAL COURT, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. 27-22 passed October 10, 2022, notes in anticipation of bonds in the principal amount of \$720,000.00, dated December 16, 2022 (the "Outstanding Notes"), were issued for the purpose described in Section 1, to mature on December 15, 2023; and

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

WHEREAS, the Auditor, as fiscal officer of this City, has certified to this Council that the estimated life or period of usefulness of the Improvement described in Section 1 is at least five (5) years, the estimated maximum maturity of the Bonds described in Section 1 is sixteen (16) years, and the maximum maturity of the Notes described in Section 3, to be issued in anticipation of the Bonds is December 22, 2035; now, therefore,

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

SECTION 1. It is necessary to issue bonds of this City in the maximum principal amount of \$540,000 (the "Bonds") for the purpose of paying the costs of the renovation of an existing building for use by the City's Municipal Court, together with all necessary appurtenances thereto (the "Improvement").

SECTION 2. The Bonds shall be dated approximately December 1, 2024, shall bear interest at the now estimated rate of 6.00% per year, payable semiannually until the principal amount is paid, and are estimated to mature in sixteen (16) annual principal installments on December 1 of each year and in such amounts that the total principal and interest payments on the Bonds in any fiscal year in which principal is payable, shall be substantially equal. The first principal payment of the Bonds is estimated to be December 1, 2025.

SECTION 3. It is necessary to issue and this Council determines that notes in the maximum principal amount of \$540,000.00 (the "Notes") shall be issued in anticipation of the issuance of the Bonds for the purpose described in Section 1 and to retire, together with other funds available to the City, the Outstanding Notes and to pay any financing costs. The principal amount of Notes to be issued (not to exceed the stated maximum amount) shall be determined by the Auditor in the certificate awarding the Notes in accordance with Section 6 of this Ordinance (the "Certificate of Award") as the amount which, along with other available funds of the City, is necessary to provide for the retirement of the Outstanding Notes and to pay any financing costs. The Notes shall be dated the date of issuance and shall

servicing in an interim or acting capacity for any such official, each are 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. The Auditor is authorized, if it is determined to be in the best interest of the City, to combine the issue of Notes with one or more other note issues of the City into a consolidated note issue pursuant to Section 133.30(B) of the Ohio Revised Code.

SECTION 7. The proceeds from the sale of the Notes received by the City (or withheld by the original purchaser on behalf of the City) shall be paid into the proper fund or funds, and those proceeds are appropriated and shall be used for the purpose for which the Notes are being issued. The Certificate of Award may authorize the original purchaser to withhold certain proceeds from the sale of the Notes to provide for the payment of certain financing costs on behalf of the City. Any portion of those proceeds received by the City (after payment of those financing costs) representing premium or accrued interest shall be paid into the Bond Retirement Fund.

SECTION 8. The City shall use reasonable efforts to sell and issue the Bonds or renewal notes at such times, in such amounts and bearing interest at such rates, and containing such additional provisions, as may be necessary to provide sufficient moneys to pay all the debt charges on the Notes when due after allowing for any other funds that may be lawfully available and appropriated for that purpose. The par value to be received from the sale of the Bonds or of any renewal notes and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used to pay the debt charges on the Notes at maturity and are pledged for that purpose.

SECTION 9. During the year or years in which the Notes are outstanding, there shall be levied on all the taxable property in the City, in addition to all other taxes, the same tax that would have been levied if the Bonds had been issued without the prior issuance of the Notes. The tax shall be within the ten-mill limitation imposed by law, shall be and is ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of those years are certified, levied, extended and collected, and shall be placed before and in preference to all other items and for the full amount thereof. The proceeds of the tax levy shall be placed in the Bond Retirement Fund, which is irrevocably pledged for the payment of the debt charges on the Notes or the Bonds when and as the same fall due.

In each year to the extent receipts from the City's municipal income tax are available for the payment of the debt charges on the Notes or the Bonds and are appropriated for that purpose, the amount of the property tax described above shall be reduced by the amount of such receipts so available and appropriated in compliance with the following covenant. To the extent necessary, the debt charges on the Notes or the Bonds shall be paid from municipal income taxes of the City lawfully available therefor under the Constitution and the laws of the State of Ohio; and the City hereby covenants, subject and pursuant to such authority, including particularly Section 133.05(B)(7) of the Ohio Revised Code, to appropriate annually from such municipal income taxes such amount as is necessary to meet such annual debt charges.

Nothing in the preceding paragraph in any way diminishes the irrevocable pledge of the full faith and credit and general property taxing power of the City to the prompt payment of the debt charges on the Notes or the Bonds.

SECTION 10. The City covenants that it will use, and will restrict the use and investment of, the proceeds of the Notes in such manner and to such extent as may be necessary so that (a) the Notes will not (i) constitute private activity bonds or arbitrage bonds under Sections 141 or 148 of the Internal Revenue Code of 1986, as amended (the "Code") or (ii) be treated other than as bonds the interest on which is excluded from gross income under Section 103 of the Code, and (b) the interest on the Notes will not be an item of tax preference under Section 57 of the Code.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Notes to be and remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Notes to the governmental purpose of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports and (v) refrain from certain uses of those proceeds, and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Auditor, as fiscal officer of the City, or any other officer of the City having responsibility for issuance of the Notes is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Notes as the City is permitted to or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties with respect to the Notes, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments with respect to the Notes, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Notes, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Notes, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Notes. The Auditor or any other officer of the City having responsibility for issuance of the Notes is specifically authorized to designate the Notes as "qualified tax-exempt obligations" if such designation is applicable and desirable, and to make any related necessary representations and covenants.

Each covenant made in this Section with respect to the Notes is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Notes (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure the exclusion of interest on the Notes from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Notes.

SECTION 11. The Auditor is authorized to request a rating for the Notes from Moody's Investors Service, Inc. or S&P Global Ratings, or both, as the Auditor determines is in the best interest of the City. The expenditure of the amounts necessary to secure any such ratings as well as to pay the other financing costs (as defined in Section 133.01 of the Ohio Revised Code) in connection with the Notes is hereby authorized and approved and the amounts necessary to pay those costs are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

SECTION 12. The legal services of the law firm of Squire Patton Boggs (US) LLP are hereby retained. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Notes and securities issued in renewal of the Notes and rendering at delivery related legal opinions, all as set forth in the form of engagement letter from that firm which is now on file in the office of the Clerk of Council. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State of Ohio, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services. The Auditor is authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment as written statements are submitted by that firm. The amounts necessary to pay those fees and any reimbursement are hereby appropriated from the proceeds of the Notes, if available, and otherwise from available moneys in the General Fund.

SECTION 13. The Clerk of Council is directed to promptly deliver a certified copy of this Ordinance to the County Auditor of Fairfield County, Ohio.

SECTION 14. This Council determines 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 general 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 full faith and credit and general property taxing power (as described in Section 9) 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 15. 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 of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law, including Section 121.22 of the Ohio Revised Code.

SECTION 16. 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: 10/23/23 after 3rd reading. Vote: Yeas 9 Nays 0

Approved: 10/23/23

Clerk: Teresa Lee Sandy

Offered by: Don H. McWanin

Second by: [Signature]

Requested by Finance Committee

[Signature]
President of Council
[Signature]
Mayor

The foregoing is a true and correct copy of Ordinance 22-23 as passed by the Council of the City of Lancaster, Ohio at its meeting on 10/23, 2023.

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2023 and _____, 2023 the Lancaster Eagle Gazette published the summary of this Ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

