

TEMPORARY RESOLUTION NO. 83-24

PERMANENT RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE THE SERVICE SAFETY DIRECTOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH URBAN RESTORATIONS FOR ITS PROJECT KNOWN AS THE SHUMAKER

WHEREAS, Urban Restorations, LLC has committed to creating The Shumaker, which will be a 65-unit luxury loft apartment project with first floor retail space, currently under construction in Lancaster's historic downtown at 219 N. Columbus Street; and

WHEREAS, pursuant to Lancaster Codified Ordinance § 1345.14(d) "The City may at its sole discretion consider a credit based on the terms of the of this chapter for the following concessions or contributions of the property owner," (5) "The provision of a development agreement with the City for purposes of job creation or for consideration of other fee or tax revenue generation"; and

WHEREAS, in anticipation of the additional tax revenue that the residential and retail units will generate for the City, and in light of Urban Restorations' financial commitment to preserving and restoring this structural piece of Lancaster's history that was previously vacant and deteriorating; now, therefore,

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

SECTION 1. That the Service Safety Director is hereby authorized to enter into a Development Agreement to provide a credit to Urban Restorations, LLC for the Fire/EMS impact fee for its project known as The Shumaker pursuant to Lancaster Codified Ordinance § 1345.14(d)(5).

SECTION 2. That the Development 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 Service Safety Director. That the Service Safety Director, 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 Service Safety Director, their character not being substantially adverse to the City, shall be evidenced conclusively by the execution thereof. This Council further authorizes the Service Safety Director for and in the name of the City, to execute any amendments to the Development Agreement, which amendments are not inconsistent with this Resolution and not substantially adverse to this City.

SECTION 3. That this resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____ after _____ reading. Vote: Yeas _____ Nays _____

Date Approved: _____

President of Council

Clerk: _____

Offered by: _____

Mayor

Second by: _____

Requested by Finance Committee

DEVELOPMENT AGREEMENT

This Agreement entered into this _____ day of September 2024, by and between Urban Restorations, LLC, an Ohio limited liability company ("Owner"); and the City of Lancaster, Ohio ("City"),

WITNESS:

- a. WHEREAS, the Owner wishes to renovate and redevelop a vacant and deteriorating, historically and architecturally significant building for residential and retail use in Lancaster's historic district on N. Columbus Street, known as The Shumaker (the "Project"), and
- b. WHEREAS, The Codified Ordinances of the City of Lancaster, Ohio, the Construction and Material Specifications of Lancaster and the general regulations and rules in force on the date of this agreement ("City Regulations") state the requirements for developing within the City.

NOW, THEREFORE, the Owner and the City, in consideration of the mutual covenants set forth herein, agree that:

I. OWNER RESPONSIBILITIES:

The Owner will:

- 1.1 Develop or cause the development of the Project in accordance with the City Regulations and the construction drawings approved by the City.
- 1.2 Unless specifically stated otherwise, be responsible for the entire cost associated with developing the Project, including providing the real estate, engineering, construction, fees and deposits.
- 1.3 Provide the City with construction drawings, specifications and supporting data describing the improvements contained in the Project. The improvements to be provided will include:
 - a. Sidewalks and curbs, graded full width and finished including drainage structures and other improvements all as shown on the City Standard Construction Drawings and required for this Project;
 - b. Monuments, stakes and all survey control required.
 - c. All other improvements shown on the construction drawings as approved by the City. (Such as grading and seeding, if necessary, etc.)
- 1.4 Await the City's approval of the construction drawings and specifications before beginning any construction work.
- 1.5 Guarantee that the labor, materials, and equipment used to develop the Project meets the City requirements by providing either;

- a. A performance bond or surety acceptable to the City equal to the estimated construction cost of the public improvements; or
- b. An irrevocable bank letter of credit payable to the City equal to one hundred percent (100%) of the estimated construction costs of the public improvements; or
- d. Subject to the approval of the City of Lancaster a certification to the City by the institution, person or corporation financing the construction of the public improvements stipulating that the funds in the amount of the estimate construction cost are available and set aside from all other funds solely for the purpose of financing the construction of the public improvements, and

which bond or funds shall not be released until the City certifies that as best the City can determine, the construction was satisfactorily completed. Such a release does not relieve the Owner of the responsibility to meet the requirements of the City Regulations or any City maintenance guarantee requirements.

- 1.6 Give the City at least one (1) week notice prior to beginning any construction work on public improvements and keep the City advised of the work schedule throughout the development of the Project.
- 1.7 Prior to conditional acceptance of the Project by the City, guarantee all labor, material and equipment incorporated in the improvements that will become public against defects and deficiencies, for at least one year, by providing either:
 - a. A maintenance bond equal to ten percent (10%) of the construction cost for the public improvements; or
 - b. A certification to the City by a financial institution or corporation acceptable to the City Law Director that: funds equal to ten percent (10%) of the estimated construction cost for public improvements have been set aside in an escrow account; that these funds cannot be released without a release by the City; that the institution or corporation holding the funds shall release to the City all of the funds so escrowed for the purpose enumerated herein; and that the escrow account will not be closed out without the approval of the City with the final acceptance of the public improvements by the City constituting release of the escrow account lacking any formal release by the City; or
 - c. A bond or irrevocable letter of credit payable to the City equal to ten percent (10%) of the construction cost for the public improvements.
- 1.8 Provide a written request for the maintenance guarantee release upon completion of at least one (1) year maintenance period during which the public improvements are maintained in a satisfactory condition and all expenses incurred by the City pursuant to this Project have been paid in full.
- 1.9 Cause the work described in the approved construction drawings, specifications and

supporting data, as required herein, to be completed within a year of the approval of the construction plans or within the term period of the surety, whichever is greater, unless approved otherwise by the City.

- 1.10 Remove or cause to be removed such dirt, debris and foreign matter from all public rights-of-way, improvements and/or easements as were deposited, left or resulted from the construction of improvements or any nature within the development, within twenty-four (24) hours after being notified by the City that such work is required. Such removal shall be done to the satisfaction of the City Engineer, pursuant to LCO Section 1107.02(g).

II. CITY RESPONSIBILITIES: The City will:

- 2.1 Provide the Project with a credit towards the fire impact fee required pursuant to City Regulations. The credit shall be provided pursuant to LCO Section 1345.13(d)(5) in consideration of the financial commitment of the Owner, the potential job creation that will occur in the Project's retail space, and the additional utility usage fees and tax revenue that will be generated by the residential portion of the Project.
- 2.2 For this Project, the fire impact fee shall be calculated as One Thousand Dollars (\$1,000.00) per residential unit. The Project consists of sixty-five (65) residential units, so the total fire impact fee for the Project shall be Sixty-Five Thousand Dollars (\$65,000.00).

III. GENERAL TERMS:

- 3.1 When there appears to be, or there is in fact, a conflict between this Agreement and the City Regulations the City Regulations shall govern.
- 3.2 The Owner shall hold the City free and harmless from any and all claims for damage of every nature arising or growing out of the construction of improvements or resulting from improvements and shall defend, at Owner's own cost and expense, any suit or action brought against the City resulting from Owner's willful action or sole negligence.
- 3.3 By signing this Agreement the Owner acknowledges possession of copies of the:
 - a. The City of Lancaster's Subdivision Regulations,
 - b. The City of Lancaster's Construction and Material Specifications,
 - c. The City of Lancaster General Regulations and Rules,

and that the procedures described in these City Regulations will be followed during the development, acceptance, and maintenance period for this Project.

- 3.4 Upon violation of, or failure to comply with, any of the terms of this Agreement by the Owner, the City may take any of the following actions, after notice and seven (7)

days to cure has been provided to Owner, unless Owner's violation of or failure to comply with the Agreement creates an immediate threat of health, safety, and/or harm to the City or public, as solely determined by the City:

- a. Stop all work on the Project forthwith;
 - b. Continue any unfinished work or replace any unaccepted work to a point that any improvements do not appear to create a health or safety hazard or create maintenance or repair expense to the City because of their state of completion by:
 - 1. Holding the bonding company responsible,
 - 2. Using the certified check, or proceeds thereof,
 - 3. Using the funds in the escrow account, or
 - 4. Draw on the letters of credit;
 - c. Take necessary action to eliminate apparent or actual safety or health hazards of an emergency nature when notification of the Owner does not cause a timely and satisfactory response, or an immediate response is required. The cost of using City labor, materials, or equipment shall be at the Owner's expense and shall be paid thirty (30) days after being billed. Failure to pay may result in the City taking the actions provided in 3.4(a) or 3.4(b) herein.
- 3.5 This Agreement represents the entire and integrated agreement between the Owner and the City for the Project and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instruction signed by both Owner and City.
- 3.6 The Owner and City each binds itself and its successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the Owner nor the City shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the Owner and the City.
- 3.7 Notices: Any notice required by this Agreement shall be conclusively presumed to have been received if in writing and if delivered personally or sent by registered or certified mail, postage prepaid, to the party to be notified at the party's last address on file with the party sending the notice.
- 3.8 Legal Interpretation and Venue: This Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio. Any claims hereunder shall be brought in a court of competent jurisdiction in Fairfield County, Ohio.

IN CONSIDERATION WHEREOF, the City and Owner hereby grant the rights and privileges stipulated herein.

IN WITNESS WHEREOF, the parties hereto have set their hands, and have executed this agreement on the day and year first above written.

Urban Restorations, LLC/OWNER:

Signature

Name Printed

Date

CITY OF LANCASTER:

Carrie Woody
Service-Safety Director

Curt Shonk, P.E., P.S.
City Engineer

As to Form: _____
Stephanie L. Hall
City Law Director

Date