

TEMPORARY ORDINANCE NO. 12-25

PERMANENT ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN COOPERATIVE AGREEMENT AMONG THE LANCASTER PORT AUTHORITY, THE CITY OF LANCASTER, OHIO, LANCASTER DEVELOPMENT COMPANY, LLC, AND THE HUNTINGTON NATIONAL BANK; AND AUTHORIZING THE APPROPRIATION OF TAX INCREMENT FINANCING FUNDS FOR PAYMENT OF DEBT SERVICE WITH RESPECT TO A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$6,000,000 OF PORT AUTHORITY REVENUE BONDS TO BE ISSUED TO PAY COSTS OF PUBLIC INFRASTRUCTURE IMPROVEMENTS; AUTHORIZING THE EXECUTION AND DELIVERY OF A TIF ADMINISTRATION AGREEMENT BETWEEN ARGUS GROWTH CONSULTANTS, LTD. AND THE CITY; AUTHORIZING AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Sections 5709.40, 5709.42, and 5709.43 of the Ohio Revised Code (“R.C.”), the City of Lancaster, Ohio (the “City”) adopted Ordinance No. 19-21 on June 24, 2021, as amended by Ordinance No. 24-21 on August 9, 2021 (as so amended and restated, the “TIF Ordinance”), which, in relevant part, declared that one hundred percent (100%) of the increase in the assessed value of each parcel comprising certain real property located within the City (the “TIF Area”) subsequent to the effective date of the TIF Ordinance (such increase, as further defined in the R.C. Section 5709.40, an “Improvement”) is a public purpose and thereby exempt from taxation for up to thirty (30) years (the “TIF Exemption”); and

WHEREAS, the City determined it to be necessary and appropriate and in the best interest of the City to require the current owners of the parcels comprising the TIF Area and any future owners of such parcels to make annual service payments in lieu of taxes with respect to any Improvement allocable thereto (Service Payments”); and

WHEREAS, pursuant to that certain Revenue Sharing Agreement, dated effective May 21, 2021, between the City and the Lancaster City School District (the “School Compensation Agreement”), the City agreed to provide compensation to the School District for a portion of the real property taxes to be exempted under the TIF Ordinance (such compensation, the “School Compensation”), which School Compensation is paid from Service Payments; and

WHEREAS, the Service Payments, less the amounts payable from the Service Payments to the School District pursuant to the School Compensation Agreement and the TIF Ordinance are referred to in this Ordinance as the “Net Service Payments”; and

WHEREAS, the Lancaster Development Company, LLC, an Ohio limited liability company (the “Company”), is the master developer of the Timbertop Mixed-Use Development Project (the “Project”) to be located at 2137 North Columbus Street in the City on approximately 78 acres (the “Project Site”); and

WHEREAS, the Project Site is situated within the TIF Area; and

WHEREAS, the Project is to contain two phases of private development generally described as follows: (i) an approximately 15-acre development including a 195-luxury apartment unit project; and (ii) an approximately 63-acre development including an 81-unit senior residential care facility and a 150-luxury apartment unit project; and

WHEREAS, pursuant to that certain Tax Increment Financing Agreement, dated effective May 9, 2023, by and between the Company and the City (the "TIF Agreement"), the City has agreed to reimburse the Company for certain Reimbursable Amounts (as defined in the TIF Agreement) incurred in connection with the Public Infrastructure Improvements (as also defined in the TIF Agreement) that the Company has incurred or will incur in the course of completing the Project (the "Original Reimbursement Obligation"); and

WHEREAS, Section 2(e) of TIF Agreement contemplated that each owner of a parcel in the TIF Area would record a TIF declaration obligating the owner and future owners to make minimum service payments ("Minimum Service Payments"), which Minimum Service Payments have been effectuated pursuant to the following: that certain Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Imposition of Continuing Priority Lien, dated November 8, 2024, and recorded against parcel no. 0532328500 on November 12, 2024, in the records of the Fairfield County Recorder's Office as document number 202400018122 (the "Parcel 0532328500 TIF Declaration"), the Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Imposition of Continuing Priority Lien, dated September 8, 2021, and recorded against parcel no. 0532327800 on September 22, 2021, in the records of the Fairfield County Recorder's Office as document number 202100025041 (the "Parcel 0532327800 TIF Declaration"), the Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Imposition of Continuing Priority Lien, dated February 9, 2024, and recorded against parcel no. 0532328300 on February 14, 2024, in the records of the Fairfield County Recorder's Office as document number 202400002152 (the "Original Parcel 0532328300 TIF Declaration"), as amended and restated by the First Amended and Restated Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Imposition of Continuing Priority Lien, dated November 22, 2024, and recorded against parcel no. 0532328300 on December 18, 2024, in the records of the Fairfield County Recorder's Office as document number 202400020326 (such amendment to the Original Parcel 0532328300 TIF Declaration, together with the Original Parcel 0532328300 TIF Declaration, the "Parcel 0532328300 TIF Declaration"), and the Declaration of Covenants and Conditions Relative to Service Payments in Lieu of Taxes and Imposition of Continuing Priority Lien, to be recorded against parcel nos. 0532328200 and 0532328400 in the records of the Fairfield County Recorder's Office (the "Parcels 0532328200 and 0532328400 TIF Declaration", collectively with the Parcel 0532328500 TIF Declaration, the Parcel 0532327800 TIF Declaration and the Parcel 0532328300 TIF Declaration, the "TIF Declarations"); and

WHEREAS, the City has requested the assistance of the Lancaster Port Authority (the "Port Authority") in financing the Project; and

WHEREAS, the Port Authority will issue revenue Bonds (the "Bonds"), the proceeds of which Bonds will be made available to the Company for the payment of costs of the Project or for reimbursement of the costs of the Project previously incurred by the Company, as further described in the Cooperative Agreement to be entered into by and among the Port Authority, the City, the Company, and The Huntington National Bank, as trustee, (the "Cooperative Agreement"); and

WHEREAS, the Cooperative Agreement will provide for, among other things: (i) the use of the proceeds of the Bonds for the payment of the Original Reimbursement Obligation, the payment of other costs of the Project, and the financing of certain other public infrastructure improvements associated with the Project; (ii) the termination and replacement of the TIF Agreement by the Cooperative Agreement, (iii) the pledge of the Net Service Payments to secure the payment of the Bonds, (iv) the assignment of all Minimum Service Payments owed under the TIF Agreement and TIF Declarations to the Port Authority for the payment of the Bonds, and (v) the administration of the allocation of the Net Service Payments and the Minimum Service Payments towards the payment of debt service on the Bonds; and

WHEREAS, City Council has determined to authorize the execution, delivery, and performance of the Cooperative Agreement by and among the Port Authority, the Company, the City, and The Huntington National Bank, as trustee all in connection with the Project; and

WHEREAS, City Council has determined to retain Argus Growth Consultants, Ltd. (the "TIF Administrator"), in order to obtain services related to the administration of the TIF Exemption, the collection and application of Service Payments, Net Service Payments, and Minimum Service Payments, the proper calculation and payment of School Compensation Payments, and other services related to the TIF Exemption; now, therefore,

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

SECTION 1. Definitions. In addition to the words and terms defined in the Cooperative Agreement, the following words and terms shall have the following meanings unless the context or use clearly indicates another or different meaning or intent:

"Administrative Expenses" includes the fees and expenses of the Port Authority as issuer of the Bonds and amounts required to enforce any provisions of the Cooperative Agreement, including but not limited to amounts necessary to fund one or more reserve funds, to pay cost of issuance, if necessary, to pay the fees and expenses of any Trustee for the Bonds, and to pay premiums on one or more surety policies, if necessary.

"TIF Administration Agreement" shall mean the agreement for TIF administration services between the City and Argus Growth Consultants, Ltd., related to the administration of the TIF Exemption.

SECTION 2. Determinations by Council. City Council finds and determines as follows:

(a) Public Purpose. The Project serves a proper public municipal purpose under Article XVIII, Section 4, of the Ohio Constitution.

(b) Cooperation with Port Authority. It is necessary, proper and in the best interest of the City to request the Port Authority to issue the Bonds and for the Port Authority to make the proceeds from the issuance of the Bonds available to the Company pursuant to the Cooperative Agreement for use in the Project or the financing or refinancing thereof. Cooperation with the Port Authority is authorized by this Ordinance and by Ohio Revised Code Sections 4582.25, 4582.43, and 4582.431.

(c) Cooperative Agreement. It is necessary, proper and in the best interest of the City to authorize the Cooperative Agreement to provide for, among other things, the issuance of the Bonds by the Port Authority.

City Council finds and determines that the issuance of the Bonds and the execution, delivery, and performance of the Cooperative Agreement in connection with such issuance for the purpose provided in this Ordinance serves a proper, public, municipal purpose and is authorized by this Ordinance and by Ohio Revised Code Sections 4582.25, 4582.43, and 4582.431.

SECTION 3. Bond Terms; Application of Proceeds.

(a) Principal Amount. The principal amount of the Bonds shall not exceed Six Million Dollars (\$6,000,000.00).

(b) Maturity. The final maturity of the Bonds shall be December 1, 2056. The Bonds shall be subject to redemption as provided in the Bond legislation approved by the Port Authority.

(c) Interest. The interest rate on the Bonds shall be fixed at 8.00%.

(d) Application of Proceeds. The proceeds from the sale of the Bonds shall be deposited and applied as provided in the Cooperative Agreement and for the purposes stated in this Ordinance.

(e) Administrative Expenses. The Administrative Expenses of the Port Authority may be paid for with the proceeds from the sale of the Bonds. The Administrative Expenses of the Port Authority may be paid with Service Payments as part of the debt service on the Bonds or otherwise.

It is determined that the terms of the Bonds as so determined within the limitations set forth in this Ordinance and as so specified and set forth in the Cooperative Agreement will be in the best interest of the City and consistent with all legal requirements.

SECTION 4. Authorization of Cooperative Agreement; Authorization of TIF Administration Agreement; Additional Documents. In connection with the issuance of the Bonds, the Mayor, the Director of Economic Development, and the City Law Director are each authorized, in the name and on behalf of the City, to sign and deliver the Cooperative Agreement and the TIF Administration Agreement in such forms as are determined by the Mayor, the Director of Economic Development, and the City Law Director as acceptable, in the best interest of the City, and consistent with this Ordinance.

The Mayor, the Director of Economic Development, and the City Law Director are each authorized to sign and deliver and accept delivery of such instruments, certificates and documents as are necessary or appropriate to consummate the transactions authorized by this Ordinance, the Cooperative Agreement, and the TIF Administration Agreement, including all agreements, contracts, and documents necessary or appropriate, in such officer's discretion, to facilitate procurement of municipal bond insurance to enhance the credit of the Bonds if determined to be advisable in connection with the pricing and sale of the Bonds.

The Mayor, the City Auditor, the Director of Economic Development, and the City Law Director are each further authorized to provide certain information related to the City (the "City Information") for inclusion in an official statement or other offering document of the Port Authority, in preliminary and final form, in connection with the original issuance of the Bonds. If the Mayor, City Auditor, Director of Economic Development, or City Law Director so determines, then the Mayor, City Auditor, Director of Economic Development, or the City Law Director are hereby authorized and directed to prepare, on behalf of the City and in their official capacities, the City Information and any supplements thereto, and such certificates related to the accuracy of the City Information as may, in their judgment, be necessary or appropriate.

The Mayor, the Director of Economic Development, and the City Law Director are each authorized to make the necessary arrangements on behalf of the City and cooperate with the Port Authority to establish the date, location, procedure and conditions for the delivery of the Bonds to the original purchaser of the Bonds identified by the Port Authority and to take all actions necessary to effect due signing, authentication and delivery of the Bonds by the Port Authority consistent with the terms of this Ordinance, the Cooperative Agreement, and the TIF Administration Agreement. The Clerk of Council or other appropriate official of the City shall, upon request, furnish the original purchaser of the Bonds identified by the Port Authority with a true transcript of proceedings certified by the Clerk or other official, of all proceedings had with reference to the authorization of the Cooperative Agreement.

SECTION 5. Interpretation. Any provisions of the Codified Ordinances of the City which are inconsistent with the provisions of this Ordinance shall not apply to the Bonds or matters authorized herein. Nothing in this Ordinance is intended to, and no provision hereof shall be applied in any manner as would, impair the obligation of contract of the City with respect to any outstanding bonds, certificates of indebtedness, other obligations, indentures, or other agreements or contracts made or entered into by the City.

SECTION 6. Validity. It is found and determined, and is hereby represented and recited, that all applicable rules of this Council have been fully complied with, and this Ordinance was passed in conformity therewith.

SECTION 7. Severability. Each section of this Ordinance and each subdivision or paragraph of any section is hereby declared to be independent, and the finding or holding of any section or any subdivision or paragraph of any section to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision or paragraph of this Ordinance.

SECTION 8. Compliance with Open Meeting Law. This Council finds and determines that all formal actions of this Council were taken in an open meeting of this Council, and that all deliberations of this Council were in meetings open to the public, all in compliance with the law, including Ohio Revised Code Section 121.22.

SECTION 9. Emergency Measure. This ordinance is declared to be an emergency measure necessary for the immediate preservation of public health, safety and general welfare, to wit: to allow the agreement to be effective immediately to facilitate the development of the Project and shall take effect and be in force from and after its adoption.

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

Approved: _____

President of Council

Clerk: _____

Mayor

Offered by: _____

Second by: _____

Requested by Economic Development Committee

I, Anitra Scott, Clerk of Council do hereby certify that on _____, 2025 the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council