

TEMPORARY ORDINANCE NO. 27-25

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

AN ORDINANCE CREATING FIVE INCENTIVE DISTRICTS AND DECLARING IMPROVEMENTS TO CERTAIN REAL PROPERTY WITHIN THE INCENTIVE DISTRICTS TO BE A PUBLIC PURPOSE, AND EXEMPT FROM REAL PROPERTY TAXATION; IDENTIFYING CERTAIN PUBLIC INFRASTRUCTURE IMPROVEMENTS THAT, ONCE MADE, WILL BENEFIT OR SERVE THE PARCELS IN THE INCENTIVE DISTRICTS; REQUIRING THE OWNERS OF THOSE PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING AN INCENTIVE DISTRICT PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SUCH SERVICE PAYMENTS; AUTHORIZING PAYMENTS TO THE LANCASTER CITY SCHOOL DISTRICT; AND APPROVING RELATED MATTERS

WHEREAS, Ohio Revised Code (“R.C.”) Sections 5709.40, 5709.42, 5709.43, 5709.82 and 5709.83 (the “TIF Statute”) provide that this City Council (the “Council”) of the City of Lancaster, Ohio (the “City”) may, under certain circumstances, establish one or more incentive districts within the City, and declare the Improvements (as defined below) to real property located within those incentive districts, to be a public purpose, exempt a percentage of such Improvements from real property taxation, identify certain public infrastructure improvements that, once made, will benefit or serve that real property, identify one or more specific projects being, or to be, undertaken in the incentive districts that place additional demand on the designated public infrastructure improvements, provide for payments in lieu of taxes by the owners of the real property, and establish a public improvement tax increment equivalent fund and accounts and subaccounts therein; and

WHEREAS, all of the real property comprising each of the five (5) Incentive Districts authorized by this Ordinance, as defined below and described on Exhibit A attached hereto and incorporated herein (the “Property” with each parcel comprising the Property being referred to individually as a “Parcel”) is located within the City and is not currently subject to another real property tax exemption authorized pursuant to R.C. Section 5709.40(B) nor included within an existing incentive district established under R.C. Section 5709.40(C); and

WHEREAS, this Council has determined that it is in the best interest of the City to establish five (5) Incentive Districts (each an individual “Incentive District” and collectively, the “Incentive Districts”) inclusive of the Property, declare the Improvements to the Property to be a public purpose, and to exempt a percentage of such Improvements from real property taxation as provided in this Ordinance; and

WHEREAS, pursuant to the TIF Statute, (i) each Incentive District is not more than three hundred (300) total acres in size, (ii) each Incentive District is enclosed by a continuous boundary, and (iii) the boundaries of each of the Incentive Districts are coextensive with the boundaries of, and will include only, the respective portions of one or more Parcels comprising the Property, as specifically identified and depicted by Exhibit A attached hereto and incorporated herein; and

WHEREAS, Forestar (USA) Real Estate Group Inc. (the “Developer”) intends to act as the initial lot developer of approximately 128.88 acres of real property located at 2106 Pleasantville Road within the City (“Project Site”); and

WHEREAS, the initial development by the Developer shall include installation of certain public infrastructure in anticipation of transferring the Project Site or portions thereof, from time to time, to one or more home building companies (the “Site Preparation Project”), and the home building companies that develop the Project Site after completion of the Site Preparation Project are expected to construct approximately 333 single-family homes in one or more phases (the “Building Project,” and together with the Site Preparation Project, the “Project”); and

WHEREAS, the public infrastructure improvements described by Exhibit B attached hereto and incorporated herein (the “Public Infrastructure Improvements”) will benefit or serve the Parcels comprising each of the Incentive Districts and as required by R.C. Section 5709.40(C)(3)(a), this Council has determined that the Project will place additional demand on the Public Infrastructure Improvements to be located at the Property and within each of the Incentive Districts; and

WHEREAS, as required by R.C. Section 5709.40(A)(5)(f), this Council has approved a written Economic Development Plan (the “Plan”) for each of the Incentive Districts and delineated an “overlay” (as defined by R.C. Section 5709.40(A)(6)) upon a map of each of the proposed Incentive Districts pursuant to its adoption of Ordinance No. 17-25 on March 10, 2025; and

WHEREAS, as required by R.C. Section 5709.40(A)(5)(f), Curtis Shonk, who serves as the engineer for the City, has certified, effective June 13, 2025, that the public infrastructure serving each of the Incentive Districts is inadequate to meet the development needs of the Incentive Districts, all as further evidenced by the Plan; and

WHEREAS, pursuant to R.C. Section 5709.40(C)(2)(a), the City held a public hearing on April 21, 2025, which such hearing occurred not later than thirty (30) days prior to the date on which this Council considered adoption of this Ordinance, notice of the public hearing was sent by first-class mail to each owner of each Parcel to be located within the boundaries of the proposed Incentive Districts not later than thirty (30) days prior to the public hearing, and this Council has not received written request for any Parcel to be excluded from inclusion in any Incentive District from any owner pursuant to R.C. Section 5709.40(C)(2)(a); and

WHEREAS, under R.C. Section 5709.42, this Council has determined to require the owner or owners of each Parcel comprising the Property within each Incentive District, together with their successors and assigns (each an “Owner”, and collectively the “Owners”), to make service payments in lieu of real property taxes on the portion of the Improvements exempted from real property taxation pursuant to this Ordinance; and

WHEREAS, under R.C. Section 5709.43, this Council has determined to establish a municipal public improvement tax increment equivalent fund for the deposit of service payments in lieu of taxes (the “Powers Run Incentive District TIF Fund”); and

WHEREAS, it is the intention of this Council to pay to the Lancaster City School District (the "School District") certain compensation payments in the amount of the taxes that would have been payable to each of the School District if the Improvements had not been exempted from real property taxation pursuant to this Ordinance; and

WHEREAS, this Council desires that the Treasurer of Fairfield County, Ohio (the "County Treasurer") forward service payments in lieu of taxes to the appropriate taxing authorities the portion of the Service Payments that represent payments required under R.C. 5709.40(F) and to the School District in the manner prescribed by Section 4 of this Ordinance, all in accordance with R.C. Sections 5709.40, 5709.42 and 5709.43; and

WHEREAS, the City sent notice of this Council's intention to exempt the Improvements from real property taxation to the Board of Education of the School District in accordance with R.C. Sections 5709.40(D) and 5709.83 and hereby ratifies the giving of such notice by the City; and

WHEREAS, notice of this proposed Ordinance was delivered to the Board of County Commissioners of Fairfield County at least forty-five (45) business days prior to date on which this Council considered adoption of this Ordinance pursuant to R.C. 5709.40(E), and the County did not object to the exemption for either of the period or the exemption percentage provided in this Ordinance with respect to any of the Incentive Districts; and

WHEREAS, this Council has determined to approve this Ordinance and dispense with the rule that this Ordinance shall be read on three (3) different days pursuant to R.C. Section 731.17(A); now, therefore,

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

SECTION 1. This Council hereby establishes each of the following Incentive Districts: Powers Run Incentive District No. 1, Powers Run Incentive District No. 2, Powers Run Incentive District No. 3, Powers Run Incentive District No. 4, and Powers Run Incentive District No. 5. Each Incentive District consists of a portion of one or more Parcels comprising the Property. The boundaries of each Incentive District are depicted on Exhibit A hereto and incorporated herein.

Pursuant to R.C. Section 5709.40(C), this Council finds and determines that it is in the best interest of the City to declare the increase in the assessed value of each Parcel comprising the Property within each Incentive District after the effective date of this Ordinance (the "Improvements") to be a public purpose and to authorize an exemption from real property taxation equal to one hundred percent (100%) of such Improvement (the "TIF Exemptions"). The TIF Exemption shall commence, with respect to each Incentive District, on the earlier of (i) the first tax year following the effective date of this Ordinance for which Improvements attributable to the construction of one or more structures within the boundaries of the individual Incentive District collectively totaling at least \$100,000 in assessed value (e.g., 35% of the true value) first appear on the tax list and duplicate of real and public utility property, or (ii) tax year 2034 (the "Commencement Date"). The TIF Exemption shall end, with respect to each Incentive District, on the earlier of (i) thirty (30) years after the Commencement Date, or (ii) the date on which the Public Infrastructure Improvements are paid in full and the City can no

longer require Service Payments from the Owners, all in accordance with the requirements of the TIF Statute.

The Public Infrastructure Improvements described in Exhibit B hereto made, to be made, or in the process of being made are hereby designated as Public Infrastructure Improvements that benefit or serve, or once made will benefit or serve, the Incentive Districts. As required by R.C. Section 5709.40(C)(3)(a), this Council hereby determines that the Project will place additional demand on the Public Infrastructure Improvements to be located at the Property and within each of the Incentive Districts.

SECTION 2. Pursuant to R.C. Section 5709.42, this Council directs and requires each Owner of each Parcel comprising the Property included within each Incentive District to make annual service payments in lieu of real property taxes with respect to the Improvements allocable to each Parcel to the County Treasurer on or before the final dates for payment of real property taxes. Service payments in lieu of taxes, including any penalties and interest at the then current rate established under R.C. Sections 323.121 and R.C. 5703.47, will be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvements if it were not subject to the TIF Exemptions authorized by this Ordinance. Such service payments in lieu of taxes, penalties and interest, and any other payments with respect to Improvements that are received by the County Treasurer in connection with the reduction required by R.C. Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions, as the same may be amended from time to time (the "Property Tax Rollback Payments," and together with the service payments in lieu of taxes and penalties and interest described above, the "Service Payments"), will be allocated and distributed in accordance with Section 4 of this Ordinance. No Owner shall, under any circumstances, be required for any tax year to both pay Service Payments with respect to an Improvement and reimburse local taxing authorities for the amount of real property taxes that would have been payable to local taxing authorities had the Improvement not been exempted from taxation pursuant to this Ordinance.

SECTION 3. This Council hereby establishes, pursuant to and in accordance with the provisions of the TIF Statute, the Powers Run Incentive District TIF Fund into which the City shall deposit all Service Payments collected with respect to the Property and received from the County Treasurer. Within the Powers Run Incentive District TIF Fund, the City Auditor of the City is hereby authorized to establish one or more accounts or sub-accounts associated with the applicable Incentive District, as may be required from time to time in the sole discretion of the City Auditor, including the following separate sub-accounts:

1. Powers Run Incentive District No. 1 TIF Fund Sub-Account;
2. Powers Run Incentive District No. 2 TIF Fund Sub-Account;
3. Powers Run Incentive District No. 3 TIF Fund Sub-Account;
4. Powers Run Incentive District No. 4 TIF Fund Sub-Account;
5. Powers Run Incentive District No. 5 TIF Fund Sub-Account;

The City, in its sole discretion, may utilize Service Payments deposited into the Powers Run Incentive District TIF Fund and its associated accounts and sub-accounts for the purposes authorized by the TIF Statutes, this Ordinance, and other generally applicable Ohio law, including, but not limited to, paying costs of the Public Infrastructure Improvements in a manner consistent with the TIF Statute and the Cooperative Agreement. The Powers Run Incentive District TIF Fund shall exist so long as Service Payments are collected and used for

the purposes described above, after which the Powers Run Incentive District TIF Fund and its associated accounts and sub-accounts are to be dissolved and any surplus funds remaining in the Powers Run Incentive District TIF Fund shall be transferred to the City's general fund, all as set forth under R.C. Section 5709.43.

SECTION 4. At the same time and in the same manner as real property tax distributions, the City requests that the County Treasurer distribute the Service Payments applicable to each Incentive District as follows:

FIRST, to the appropriate taxing authorities the portion of the Service Payments that represent payments required under R.C. 5709.40(F), as required by the County Treasurer pursuant to R.C. Section 5709.43(C); and

SECOND, to the School District the amount of the real property taxes that would have been payable to each of the School District if the Improvements had not been exempted from taxation pursuant to this Ordinance; and

THIRD, the remainder to the City for deposit into the Powers Run Incentive District TIF Fund.

The City shall then use the Service Payments for such uses as may be identified and approved by the City from time to time, as follows:

FIRST, to pay or finance the costs associated with any Public Infrastructure Improvements defined by R.C. Section 5709.40(A)(8), identified in Exhibit B, and selected in the sole discretion of the City, made, to be made, or in the process of being made that benefit or serve, or, once made, will benefit or serve the Parcels of the Property included within the Incentive Districts, including payment of interest and payment of any obligation issued to pay such costs, all as authorized under Ohio Revised Code Section 5709.40 and more particularly defined by Exhibit B attached hereto and incorporated herein, and

SECOND, for any other lawful purpose pursuant to this Ordinance, the TIF Statute, its related laws and rules, and other generally applicable Ohio law.

SECTION 5. Pursuant to R.C. Section 5709.91 and a Cooperative Agreement authorized by separate legislation of this Council with respect to the Project and the Parcels (the "Cooperative Agreement"), in order to ensure sufficient funds to finance the Public Infrastructure Improvements during the period when the exemption granted by this Ordinance is in effect for each Parcel, the Owner or Owners of each Parcel are hereby required to make, and shall make, minimum service payments with respect to the Improvements on each such Parcel to or as directed by the City on or before the dates for such payments as directed in the Cooperative Agreement. Each minimum service payment shall be in the amounts specified and memorialized in an instrument recorded against each Parcel.

SECTION 6. This Council further authorizes the Mayor and the City Auditor, together with their designees, are authorized and directed to sign any other agreement, document, instrument, amendment, or certificate and to take such actions as are necessary or appropriate to consummate or implement the matters described in or contemplated by this Ordinance.

SECTION 7. This Council further authorizes and directs the Mayor and the City Auditor, or their designees, and other appropriate officers of the City to: (i) make such arrangements as are necessary and proper for the collection of Service Payments from the Owners of any of the Parcels comprising the Property and included within any of the Incentive Districts, (ii) facilitate the payment of the Service Payments from the County Treasurer to the City for deposit into the Powers Run Incentive District TIF Fund, (iii) prepare and sign all agreements, documents, instruments, amendments, or certificates as may be necessary to implement this Ordinance from time to time, including, but not limited to, any applications for real property tax exemption and remission (Form DTE-24) that may be required with respect to each Incentive District; and (iv) take all other actions as may be appropriate to implement this Ordinance.

For the avoidance of doubt, R.C. Section 5709.911 shall govern the priority status of the TIF Exemptions authorized pursuant to this Ordinance. Pursuant to R.C. 5709.40(C) and 5709.911, the City intends to apply for the TIF Exemptions authorized pursuant to this Ordinance.

SECTION 8. Pursuant to R.C. Section 5709.40(I), the Mayor and the City Auditor, together with their designees, are authorized and directed to deliver a copy of this Ordinance to the Director of the Ohio Department of Development (“ODOD”) within fifteen (15) days of its adoption. On or before March 31st of each year that a TIF Exemption authorized pursuant to this Ordinance remains in effect, the Mayor and the City Auditor, together with their designees, are authorized to prepare and submit the status report required under R.C. Section 5709.40(I) to the Director of ODOD.

SECTION 9. In accordance with R.C. Section 5709.832, this Council hereby determines that no entity doing business upon any Parcel or any portion of any Parcel comprising the Property and included within any Incentive District shall deny any individual employment based on considerations of race, religion, sex, disability, color, national origin, or ancestry.

SECTION 10. The City acknowledges that it has created, or has joined, an applicable Tax Incentive Review Council (the “TIRC”) with the membership of the TIRC constituted in accordance with R.C. Section 5709.85. The TIRC shall, in accordance with R.C. Section 5709.85, annually review all TIF Exemptions resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before the TIRC, all in accordance with R.C. Section 5709.85.

SECTION 11. 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, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including R.C. Section 121.22.

SECTION 12. That this Council has dispensed with the rule that this Ordinance shall be read on three (3) different days by a vote of at least three-fourths (3/4) of the members of the Council, and this Ordinance shall be effective at the earliest date allowable by law upon its adoption and approval by the Mayor.

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 in the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

\_\_\_\_\_  
Clerk of Council

## **EXHIBIT A**

### **Description of Parcels**

The Property consists of those Parcels identified in the records of the Fairfield County Auditor as having the permanent parcel identification numbers noted below as of the date of the passage of the Ordinance to which this Exhibit A is attached.

It is expected that the Developer may submit a record plan application to the Planning and Zoning Committee of the City to re-plat the Property and convey fee simple ownership to future owners of the approximately 333 lots consisting of single-family homes. Such re-plat may occur after the adoption of the Ordinance to which this Exhibit A is attached. For the avoidance of doubt, the Parcels of the Property to be included within each Incentive District shall consist of, and the authorizations of the Ordinance to which this Exhibit A is attached shall apply to, the Parcels comprising the Property identified below, as such Parcels may be sub-divided, combined, re-combined, re-numbered, or re-platted from time to time by the Developer, the City, and the Fairfield County Auditor.

The Powers Run Incentive Districts shall be comprised of:

0534008020

0534164600

0270166299

For ease of reference, the map that follows shows the Powers Run Incentive Districts labeled by their numbers and highlighted in yellow.

(See attached.)



## **EXHIBIT B**

### **Public Infrastructure Improvements**

The Public Infrastructure Improvements consist generally of acquiring and constructing the Public Infrastructure Improvements described below, as selected in the sole discretion of the City in accordance with the Ordinance to which this Exhibit B is attached, the TIF Statute, its related rules and laws, and other generally applicable Ohio law, including but not limited to, the following:

- Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing, or changing of, as well as the continued maintenance of, the lines and traffic patterns of roads, highways, streets, bridges (both roadway and pedestrian), traffic calming devices, sidewalks, bikeways, medians, and viaducts accessible to and serving the public, and providing lighting systems, signalization, and traffic controls, and all other appurtenances thereto; and
- Construction, reconstruction, or installation of, as well as the continued maintenance of, public utility improvements (including any underground publicly owned utilities), storm and sanitary sewers (including necessary site grading therefore), police equipment and police station buildings and improvements, fire equipment and fire buildings and improvements, water and fire protection systems, and all other appurtenances thereto; and
- Construction, reconstruction, or installation of publicly owned gas, electric, and communication service facilities, and all other appurtenances thereto; and
- Construction or reconstruction of one or more public parks, including grading, trees and other park plantings, park accessories and related improvements, and all other appurtenances thereto; and
- Construction or installation of streetscape and landscape improvements including trees and shrubs, landscaping mounds and fencing, tree grates, planting beds, signage, curbs, sidewalks, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, and all other appurtenances thereto; and
- Construction of one or more public parking facilities, including public surface parking and public parking structures and related improvements, and all other appurtenances thereto; and
- Demolition and excavation, including demolition and excavation on private property when determined to be necessary for economic development purposes; and

- Acquisition of real estate or interests in real estate (including easements) necessary to accomplish the foregoing improvements; and
- Any on-going administrative expenses relating to the Public Infrastructure Improvements as well as maintaining the Service Payments in the Powers Run Incentive District TIF Fund, including but not limited to, engineering, architectural, legal, and other consulting and professional services; and
- All inspection fees and other governmental fees related to the foregoing; and
- Any and all other costs of the Public Infrastructure Improvements, as determined by the City in its sole discretion and in accordance with the Ordinance to which this Exhibit B is attached, the TIF Statute, its related rules and laws, and other generally applicable Ohio law.

The Public Infrastructure Improvements specifically include the costs of financing the Public Infrastructure Improvements, including the items of “costs of permanent improvements” set forth in Ohio Revised Code Section 133.15(B), and incurred with respect to the Public Infrastructure Improvements. “Costs” specifically include any reimbursement payments for the reimbursement of the costs of the Public Infrastructure Improvements and the debt service on any bonds or other obligations issued to finance the Public Infrastructure Improvements (including fees and administrative expenses of, and fund reserve funds necessary to pay or service any financing, refinancing or other obligations) (the “Debt Service”), all as determined by the City in its sole discretion and in accordance with the Ordinance to which this Exhibit B is attached, the TIF Statute, its related rules and laws, and other generally applicable Ohio law.