

TEMPORARY ORDINANCE NO. 10-10

PERMANENT ORDINANCE NO. _____

AN ORDINANCE APPROVING, AND AUTHORIZING THE EXECUTION AND DELIVERY OF, A SETTLEMENT AND ESCROW AGREEMENT BY AND BETWEEN THE CITY OF LANCASTER, OHIO AND ISLAND CAPITAL INVESTMENT GROUP, LLC, AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance No. 39-06 (the "TIF Ordinance"), passed by this Council on September 11, 2006, the City declared certain improvements to certain property (the "Property") to be a public purpose, exempting portions of the value of those improvements from real property taxes, specified that certain public infrastructure improvements, including the improvements described in Section 1 (the "Improvements"), would benefit that property, requiring the owners of the Property to make service payments in lieu of taxes (the "Service Payments"), creating the Ety Road Municipal Tax Increment Equivalent Fund (the "TIF Fund"), and authorizing a Tax Increment Financing Agreement (the "TIF Agreement") by and among the City, Island Capital Investment Group, LLC ("Island Capital"), Menard, Inc. ("Menard"), RLG Lancaster Ltd. ("RLG Lancaster"), GCG Lancaster Ltd. ("GCG Lancaster"), Anchor Lancaster, LLC ("Anchor Lancaster" and together with RLG Lancaster and GCG Lancaster, "RG/Anchor") and Wal-Mart Stores East, LP ("Wal-Mart", and together with Island Capital, Menard and RG/Anchor, the "TIF Parties"); and

WHEREAS, pursuant to Ordinance No. 18-09, passed by this Council on September 28, 2009, the City issued general obligation notes, in anticipation of the issuance of bonds, in an aggregate principal amount of \$3,475,000 bearing interest at a rate of 1.75% to pay costs of the Improvements as required by the TIF Agreement (such notes, any prior notes issued to pay costs of the Improvements, and any subsequent notes or bonds retiring such notes or bonds are collectively referred to herein as the "Debt"); and

WHEREAS, pursuant to Section 3.15 of the TIF Agreement, Island Capital provided a letter of credit for a maximum amount of \$1,084,320 (the "Letter of Credit") to secure the payment of a portion of the Debt; and

WHEREAS, subsequent to the delivery of the Letter of Credit, the City and Island Capital agreed that the maximum amount of the Letter of Credit should be reduced by 50% to \$542,160; and

WHEREAS, Island Capital failed to provide to the City a new, revised or amended Letter of Credit reflecting the 50% reduction in the amount of the Letter of Credit; and

WHEREAS, Island Capital failed to provide a new Letter of Credit prior to the expiration of the existing Letter of Credit; and

WHEREAS, pursuant to the terms of the Letter of Credit and the terms of the TIF Agreement, the City drew the entire maximum amount of the Letter of Credit (\$1,084,320); and

WHEREAS, this Council has negotiated a Settlement and Escrow Agreement with Island Capital regarding the use of the proceeds of the draw on the Letter of Credit;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lancaster, Fairfield County, Ohio, that:

SECTION 1. It is in the best interests of the City to reach a settlement with Island Capital in order for the City to comply with the terms of the TIF Agreement. Thus, the Settlement and Escrow Agreement in the form now on file with this Council is approved, and the Mayor is authorized to execute and deliver on behalf of the City the Escrow Agreement in substantially the form now on file with this Council with such changes that are not materially adverse to the interests of the City and are approved by the Mayor. The Mayor's execution and delivery of the Escrow and Settlement Agreement shall be conclusive evidence of his approval of any changes to that agreement.

SECTION 3. This Council finds and determines that all formal actions of this Council 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 of any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

SECTION 4. 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 comply with the terms of the TIF Agreement; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

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

Date Approved: _____

Clerk: _____

President of Council

Mayor

The foregoing is a true and correct copy of Ordinance _____-10 as adopted by the Council of the City of Lancaster, Ohio at its meeting on _____, 2010.

Offered by: _____

Second by: _____

Requested by Finance Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____,
2010 the Lancaster Eagle Gazette published the summary of this ordinance in accordance with
Ohio Revised Code 731.24.

Clerk of Council