

TEMPORARY ORDINANCE NO. 21-16

PERMANENT ORDINANCE NO. _____

AN ORDINANCE TO ACCEPT AN EASEMENT NECESSARY FOR THE CONSTRUCTION OF A GAS LINE

WHEREAS, there exists a real and present need to accept said easement for the installation of a gas line;

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

SECTION 1. The following easement be accepted as shown in the attachment:

<u>PROPERTY OWNER</u>	<u>PERMANENT EASEMENT</u>	<u>EXHIBIT</u>
Fairfield County Commissioners	0.160 Acres	A

SECTION 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

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

Approved: _____

President of Council

Clerk: _____

Mayor

Offered by: _____

Second by: _____

Requested by Service Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2016 in the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

**DEED OF PERMANENT EASEMENT
GENERAL UTILITY UNDERGROUND FACILITIES EASEMENT**

The **Board of County Commissioners of Fairfield County Ohio** ("Grantor"), for good and valuable consideration received, does hereby grant and convey to the **City of Lancaster**, an Ohio municipal corporation, its successors and assigns ("Grantee"), a **permanent General Utility Underground Facilities Easement** ("Easement"), together with appurtenant rights upon, across and under certain real property owned by Grantor, said real property being situated in the State of Ohio, County of Fairfield, City of Lancaster, Section 1, Township 14, Range 19 and being part of a 2.42 acre tract conveyed to Grantor in Deed Volume 606, Page 481, a 4.80 acre tract conveyed to Grantor by Deed Volume 611, Page 287, and part of lot 8 of Daugherty's Addition in Plat Book 1, Page 5 in Official Record 1129, Page 2391, all recorded in the Fairfield County Recorder's Office (collectively the "Real Property"). The Easement consists of a 0.160 acre portion, more or less, of the Real Property more specifically described in the legal description and diagram attached as Exhibit "A" hereto and incorporated by reference herein ("Easement Premises").

By acceptance of this Easement, the parties mutually agree that it is in their best interest for the Grantor to grant and the Grantee to accept the following conditions and covenants:

1. Grantor hereby grants and conveys to Grantee a permanent Easement to survey, construct, operate, maintain, remove, replace and control general utility underground facilities upon, across and under the Easement Premises, together with all reasonable rights of ingress and egress across the Real Property owned by Grantor necessary for the exercise of the rights herein granted.
2. Grantor shall permit Grantee's employees, agents, and contractors to enter upon the Real Property for the purposes of constructing, maintaining, operating, and replacing the general utility underground facilities upon, across and under the Easement Premises. Grantor shall not interfere with Grantee's use, access, ingress and egress to the Easement Premises. Grantee shall be permitted to construct roadways, signage, barriers, fencing, and landscaping as Grantee determines is necessary, provided that the same does not unreasonably interfere with the Grantor's use of the Real Property. The right to use the Easement Premises shall belong to the Grantee and its agents, employees, designees, contractors, guests, invitees, successors and assigns, and all those acting on Grantee's behalf for the purposes of establishing, laying, constructing, reconstructing, installing, realigning, modifying, replacing, improving, adding, altering, substituting, operating, maintaining, accessing, inspecting, patrolling, protecting, repairing, or relocating the general utility underground facilities within the Easement Premises.
3. All improvements on the Easement Premises shall be at the sole cost of the Grantee.
4. Grantee agrees to comply in all material respects, at its sole cost, with all applicable federal, state and local laws, rules, and regulations which are applicable to Grantee's activities hereunder, including but not limited to the construction, use, operation, maintenance, repair and service of the general utility underground facilities.

5. Grantor owes no duty to keep the Easement Premises or Real Property safe for entry, Grantor extends no assurance, through the act of conveying the Easement Premises, that the premises are safe for entry or use, and Grantor assumes no responsibility nor does Grantor incur liability for any injury to person or property caused by any act undertaken or omission by Grantee in furtherance of or related to the use of the Easement Premises.
6. Grantee shall be responsible for maintaining the Easement Premises in a clean and safe condition. Grantee will, insofar as reasonably practicable, level, re-grade, and reseed the ground disturbed by Grantee's use of the Easement Premises and will maintain the Easement Premises clean of all litter and trash during periods of construction, operation, maintenance, repair or removal. All construction debris shall be cleaned up and removed from Grantor's lands upon completion of installation and construction of the general utility underground facilities and associated equipment and appurtenances thereto. In the use and maintenance of the Easement Premises, each party shall be responsible for its own negligence, acts, and omissions.
7. Grantee shall have the right to prohibit public access to the Easement Premises.
8. Grantor may not erect new or additional underground power and transmission lines, water, sewer, or other utility lines, or wells within the Easement Premises, without Grantee's consent which shall not be unreasonably withheld, and Grantor may not grant any additional easement(s) within the Easement Premises for such or any other purposes.
9. No buildings or other permanent structures shall be constructed in the Easement Premises by Grantor, nor shall Grantor cause any excavating or filling to be done which, in the reasonable judgment of Grantee, would impair Grantee's exercise of the rights granted hereunder or its ability to maintain its Easement.
10. Grantee has the right (1) to mow the Easement Premises, (2) to trim, cut down or eliminate trees or shrubbery as may be necessary to prevent possible interference with the operation of the general utility underground facilities, (3) to remove possible hazards thereto, and (4) to remove or prevent the construction of any and all permanent buildings, structures, reservoirs or other obstructions on the Easement Premises which may endanger or interfere with the efficiency, safety or convenient operation of the general utility underground facilities. All trees, brush and other debris caused by construction shall be burned and/or chipped and spread on the Easement Premises or removed to an authorized disposal site. The method of disposal shall be selected by Grantee.
11. Grantor reserves the right to use the Easement Premises in any manner that will not prevent or interfere with the exercise by the Grantee of the rights granted hereunder; provided, however, that Grantor shall not permanently obstruct, or permit to be obstructed, the Easement Premises without the express prior written consent of Grantee.
12. Grantee shall have the right to periodically inspect the Easement Premises for violations of the covenants and restrictions set forth herein. If Grantor or its successors and assigns

violate any of these covenants and restrictions Grantor shall cure the violation(s) within sixty (60) days of receipt of written notice thereof from Grantee. If Grantor fails to adequately cure or eliminate the violation(s) within the sixty (60) day time period, Grantee may cause the cure of the violation(s), and Grantor shall immediately reimburse Grantee for all costs and expenses incurred in curing the violation(s). In addition, Grantee shall also have the right to obtain injunctive relief for the enforcement of the covenants and restrictions from a court of competent jurisdiction.

13. Grantee shall have the right to post or clearly mark the boundaries of the Easement Premises provided such posting or marking does not unreasonably interfere with Grantor's use of the Easement Premises.
14. Grantee shall have the non-exclusive possession of the Easement Premises at all times.
15. This Easement, together with the terms and conditions contained herein, and all rights, title and privileges herein granted, including all benefits and burdens, shall run with the Real Property and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.
16. Grantor agrees that Grantee may assign the rights to maintain or repair the Easement Premises granted to it hereunder to any assignee who demonstrates sufficient competence and gives adequate assurances that any work to be performed pursuant to such assignment shall be conducted in a skillful manner, and that Grantor's interest in the Easement Premises shall be protected to the same extent as hereunder.
17. Said Easement may not be sold or transferred without Grantor's specific written authority regardless of whether such action is deemed to result in any additional burden or damage to Grantor's property.
18. If any damage to the Real Property is caused by Grantee's exercise of its rights hereunder, Grantee shall, at its expense, promptly restore any disturbed areas including fences, trails, and field tiles, as nearly as possible to the condition existing prior to the occurrence of the damage.
19. Grantor hereby covenants with Grantee that it is the true and lawful owner of the Real Property inclusive of the Easement Premises and is lawfully seized of the same in fee simple and has good right and full power to grant this Easement. Grantor represents and warrants that he/she/it is the sole free owner of the Real Property and that he/she/it has the authority to convey said rights and interests to the Grantee. Grantor represents and warrants that, except for easements, conditions, agreements, restrictions, reservations and covenants of record prior to the date of this instrument, there are no liens, encumbrances or mortgages affecting the land underlying the Easement except: NONE.

20. This Easement shall be interpreted, enforced and governed under the laws of the State of Ohio. If the Easements cover property located in more than one county, venue shall be in the county where the majority of the property geographically exists.
21. This Easement embodies the entire agreement between the parties hereto and supersedes any and all agreements representations, warranties, or statements which may have been made between the parties prior to the date hereof, whether express, implied, written or verbal, concerning the subject matter hereof and this Easement shall not be modified or amended except by written instrument executed by each party hereto.

IN WITNESS WHEREOF, the parties have executed or have caused this instrument to be executed by their proper officers duly authorized to do so this ____ day of _____, 20____.

GRANTOR:

**Board of County Commissioners
Fairfield County, Ohio**

**Carri L. Brown
County Administrator**

GRANTEE:

City of Lancaster, Ohio

**Paul D. Martin
Service-Safety Director**

State of Ohio :
County of Fairfield : ss

BEFORE ME, a Notary Public in and for said county and state, personally appeared the above named **Carri L. Brown** who acknowledged that she did execute this instrument as her own free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on this ____ day of _____, 20____.

NOTARY PUBLIC

State of Ohio :
County of Fairfield : ss

BEFORE ME, a Notary Public in and for said county and state, personally appeared the above named **Paul D. Martin** who acknowledged that he did execute this instrument as his own free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on this ____ day of _____, 20____.

NOTARY PUBLIC

This instrument prepared by:
R. Kyle Witt
Law Director & City Prosecutor's Office
City of Lancaster, Ohio
136 West Main Street
Lancaster, Ohio 43130



**10' Wide Gas Line Easement
0.160 Acres**

Situated in the State of Ohio, County of Fairfield, City of Lancaster, Section 1, Township 14, Range 19, being part of a 2.42 acre tract conveyed to the Board of County Commissioners Fairfield County Ohio in Deed Volume 606, Page 481, a 4.80 acre tract conveyed to the Board of County Commissioners Fairfield County Ohio by Deed Volume 611, Page 287, and part of lot 8 of Daugherty's Addition in Plat Book 1, Page 5 in Official Record 1129, Page 2391 all recorded in the Fairfield County Recorder's Office, and being more particularly described as follows:

Commencing for reference at a point at the northeast corner of lot 8 of Daugherty's Addition in Plat book 1, Page 5, Thence, along the east line of lot 8, South 23 degrees 10 minutes 47 seconds East, 10.57 feet and being the **TRUE POINT OF BEGINNING** for the parcel herein described:

Thence, along the east line of said lot 8, South 23 degrees 10 minutes 47 seconds East, 11.59 feet to a point on the north line of a 10 foot wide sanitary sewer easement recorded in deed volume 367, page 31;

Thence, along the north line of a 10' wide sanitary sewer easement recorded in deed volume 367, page 31 and deed volume 367, page 18, North 82 degrees 49 minutes 34 seconds West, 257.26 feet to point;

Thence, along the east line of a sanitary sewer easement recorded in deed volume 367, page 18, North 01 degrees 45 minutes 19 seconds West, 277.93 feet to a point on the south line of a 15 foot wide sanitary sewer easement recorded in deed volume 501, page 442;

Thence, along the south line of said 15 foot wide sanitary sewer easement, North 59 degrees 34 minutes 17 seconds East, 13.08 feet to a point;

Thence, along the east line of said 15 foot wide sanitary sewer easement, North 00 degrees 40 minutes 50 seconds East, 153.00 feet to a point on the grantor's north line and the south right of way for Wheeling Street;

Thence, along the grantor's north line and the south right of way for Wheeling Street, South 87 degrees 57 minutes 47 seconds East, 10.00 feet to a point;

Thence, across the grantor's tract, South 00 degrees 40 minutes 50 seconds West, 152.76 feet to a point;

Thence, across the grantor's tract, South 20 degrees 43 minutes 24 seconds West, 30.00 feet to a point;

Thence, across the grantor's tract, South 01 degrees 45 minutes 19 seconds East, 247.51 feet to a point;

Thence, across the grantor's tract, South 82 degrees 49 minutes 34 seconds East, 242.85 feet to the **TRUE POINT OF BEGINNING**, and containing 0.160 acres, more or less.

Description prepared from an actual field survey by 2LMN, Inc. and under the supervision of Richard F. Mathias, P.S. #7798, May, 2016.

Bearings based GPS true North.

All iron pins (set) are 5/8 inch rebar, 30 inches long, and have a 1-1/4 inch plastic identification cap stamped "2lmn"

A plat of survey was prepared with and is considered an integral part of this legal description.

Richard F. Mathias

Richard F. Mathias
Ohio Registered Surveyor 7798



7-18-16
Date

