

TEMPORARY ORDINANCE NO. 32-17

PERMANENT ORDINANCE NO. _____

AN ORDINANCE TO ACCEPT AN EASEMENT NECESSARY TO CONSTRUCT, REPAIR, MAINTAIN, OPERATE, INSPECT, REPLACE, OR REMOVE A GAS LINE AND APPURTENANCES

WHEREAS, there exists a real and present need to accept said easement for the construction, repair, maintenance, operation, inspection, replacement, and/or removal of a gas line;

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

SECTION 1. The following easement be granted under terms and conditions substantially similar to Exhibit A attached hereto:

| <u>PROPERTY OWNER</u> | <u>PERMANENT EASEMENT</u> | <u>EXHIBIT</u> |
|---------------------------------|---------------------------|----------------|
| Complete Filter Management, LLC | +/- 0.169 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 Law Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2017 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 **Complete Filter Management, LLC**, having a mailing address of 915 N. 43rd Street, Omaha, NE, 68131 ("Grantor"), for good and valuable consideration received, does hereby grant, bargain, sell and convey to the **City of Lancaster**, an Ohio municipal corporation, having a mailing address of 104 East Main Street, Lancaster, Ohio 43130, its successors and assigns ("Grantee"), a **permanent General Utility Underground Facilities Easement** ("Easement"), together with appurtenant rights in, under, along, over, across, and upon the real property (or a portion of the real property) owned by Grantor, located in the State of Ohio, County of Fairfield, City of Lancaster, and more fully described as 410 S. Ewing Street, Parcel No. 0535031400, Township 14, Range 18, Section 5 and being over a 106.052 acre tract recorded in Official Record 1740, Page 3777 ("Real Property"). The exact location of the Easement consists of a +/- 0.169 acre portion of the Real Property more specifically described in the legal description and illustration attached as Exhibit "A" hereto and incorporated herein by reference ("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 to do the following:

1. Grantor hereby grants and conveys to Grantee a permanent Easement to survey, construct, operate, maintain, remove, replace and control General Utility Underground Facilities, subject to the terms and conditions hereinafter set forth, in, under, along, over, across, and upon 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 and associated equipment and appurtenances thereto over and across the Easement Premises, and 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. 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 by or on behalf of it for the purposes of establishing, laying, constructing, reconstruction, installing, realigning, modifying, replacing, improving, adding, altering, substituting, operating, maintaining, accessing, inspecting, patrolling, protecting, repairing, changing the size of, or relocating the General Utility Underground Facilities and associated equipment and appurtenances thereto 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 without limitation, the construction, use, operation, maintenance, repair and service of the General Utility Underground Facilities and associated equipment and appurtenances thereto.

5. 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.
6. Grantee shall have the right to prohibit public access to the Easement Premises.
7. Grantor may not erect new or additional power and transmission lines, water, sewer, or other utility lines, or wells within the Easement Premises, and Grantor may not grant any additional easement(s) within the Easement Premises.
8. No buildings or other 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.
9. Grantee has the right (1) to mow the Easement Premises, (2) to trim, cut down or eliminate trees or shrubbery that, in the sole judgment of Grantee, interfere with the operation of the General Utility Underground Facilities, (3) to remove possible hazards to the General Utility Underground Facilities, and (4) to remove or prevent the construction of any and all buildings, structures, reservoirs or other obstructions on the Easement Premises which, in the sole judgment of the Grantee, 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.
10. 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 obstruct, or permit to be obstructed, the Easement Premises without the express prior written consent of Grantee.
11. 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 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). Grantee shall also have the right to obtain injunctive relief for the enforcement of the covenants and restrictions from a court

of competent jurisdiction.

12. Grantee shall have the right to post and/or mark the boundaries of the Easement Premises.
13. Grantee shall have exclusive possession of the Easement Premises at all times.
14. This Easement, its terms and conditions contained herein and all rights, title and privileges herein granted, including all benefits and burdens, shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.
15. Grantor agrees that Grantee may assign the rights 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 done in a skillful manner.
16. 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.
17. If any damage to Grantor's Real Property is caused by Grantee's exercise of its rights hereunder, Grantee shall promptly restore any disturbed areas as nearly as possible to the condition existing prior to the occurrence of the damage.
18. Grantor 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(s) of the property herein described and the 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 Agreement, there are no liens, encumbrances or mortgages affecting the land underlying the Easements except: NONE.
19. Grantor agrees to defend, indemnify and hold harmless Grantee from any and all claims disputing Grantor's legal right to convey the Easement to Grantee, as well as all claims for payment or restitution made by a third party. Grantor agrees to reimburse Grantee for its costs, including attorney's fees, in asserting or defending all claims made which dispute Grantor's legal right(s) to convey the Easement.
20. This Easement shall be interpreted, enforcement and governed under the laws of the State of Ohio. If the Easement covers 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 with respect to the Easements 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 on this ____ day of _____, 2017.

GRANTOR:

GRANTEE:

Complete Filter Management, LLC

City of Lancaster, Ohio

Michael Beier

Paul D. Martin

Title: _____

Service-Safety Director

State of Ohio :
County of Fairfield : ss

BEFORE ME, a Notary Public in and for said county and state, did personally appear the above-named **Michael Beier**, who acknowledged that he/she did sign the foregoing instrument and that the same was his/her free act and deed.

IN TESTIMONY WHEREOF, I have set my hand and official seal, at Lancaster, Ohio, this ____ day of _____, 2017.

Notary Public, State of Ohio

State of Ohio :
County of Fairfield : ss

BEFORE ME, a Notary Public in and for said county and state, did personally appear the above-named **Paul D. Martin**, who acknowledged that he did sign the foregoing instrument and that the same was his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Lancaster, Ohio, this ____ day of _____, 2017.

Notary Public, State of Ohio

This instrument prepared by:
Randall T. Ullom
Law Director & City Prosecutor's Office
City of Lancaster, Ohio
P.O. Box 1008
Lancaster, Ohio 43130



TOBIN-McFARLAND SURVEYING, INC.

Professional Land Surveyors

111 West Wheeling Street
Lancaster, Ohio 43130
Phone (740) 687-1710
Fax. (740) 687-0877

**DESCRIPTION OF 20 FOOT WIDE
GAS LINE EASEMENT**

Situated in the State of Ohio, Fairfield County, City of Lancaster, Township 14, Range 18, Section 5.

Being over a 106.052 acre tract described in a deed to Complete Filter Management LLC as recorded in Official Record 1740, Page 3777 and being more fully described as follows:

Beginning for reference at a one inch iron pipe found at a corner of the aforementioned 106.052 acres and on the south line of the Penn Railroad, said pipe being North 00 degrees 08'38" East a distance of 1220.41 feet, South 78 degrees 53'10" West a distance of 1290.22 feet and South 00 degrees 00'24" East a distance of 50.96 feet from the southwest corner of Outlot No.27 in Banks Addition as recorded in Plat Book 1, Page 8;

Thence North 78 degrees 53'10" East a distance of 88.30 feet to a point on the north line of said 106.052 acres and the TRUE POINT OF BEGINNING;

Thence North 78 degrees 53'10" East a distance of 20.38 feet to a point on the north line of said 106.052 acres;

Thence South 00 degrees 00'24" East a distance of 368.99 feet to the northeast corner of an existing gas line easement recorded in Deed Volume 345, Page 556;

Thence with the north line of the existing easement North 90 degrees 00'00" West a distance of 20.00 feet;

Thence North 00 degrees 00'24" West a distance of 365.06 feet to the TRUE POINT OF BEGINNING.

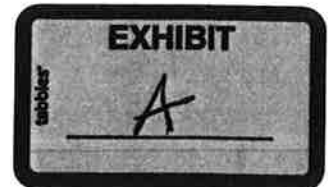
Bearings are based on the 106.052 acre tract as described in Official Record 1740, Page 3777. For additional information see "Plat of Easement" made in conjunction with and considered an integral part of this description.

This description is based on a survey made in September of 2017 by Tobin-McFarland Surveying, Inc., and was prepared by Rodney McFarland, Registered Professional Surveyor No. 6416.

Rodney McFarland 9/14/17

Rodney McFarland, P.S. 6416
Sept. 14, 2017 originals are signed in blue ink

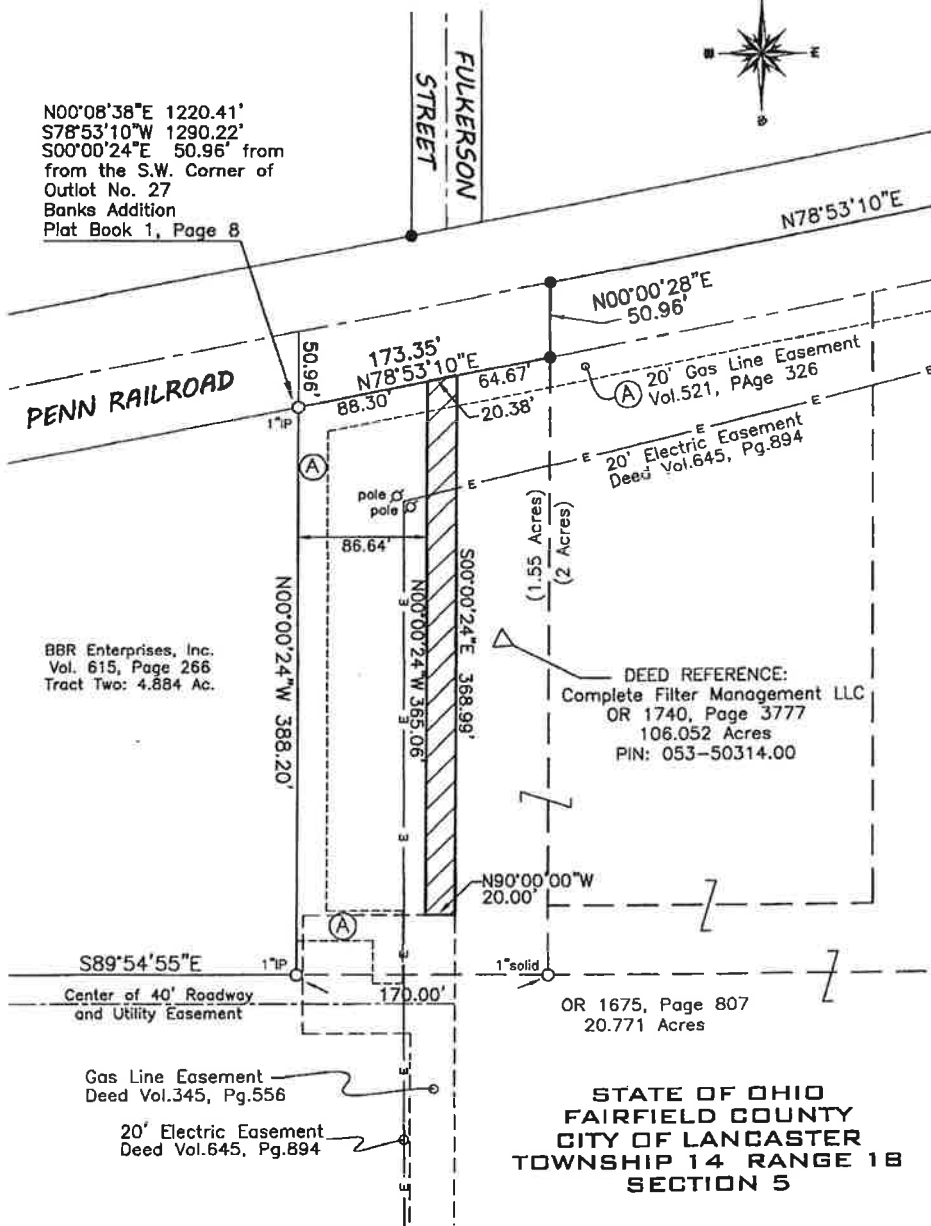
Ease Lanc Glass.docx
USB R2/2017/City of Lancaster



**PLAT OF EASEMENT
Exhibit**



N00°08'38"E 1220.41'
S78°53'10"W 1290.22'
S00°00'24"E 50.96' from
from the S.W. Corner of
Outlet No. 27
Banks Addition
Plat Book 1, Page 8



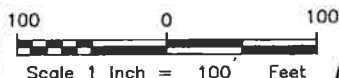
BBR Enterprises, Inc.
Vol. 615, Page 266
Tract Two: 4.884 Ac.

DEED REFERENCE:
Complete Filter Management LLC
OR 1740, Page 3777
106.052 Acres
PIN: 053-50314.00

OR 1675, Page 807
20.771 Acres

**STATE OF OHIO
FAIRFIELD COUNTY
CITY OF LANCASTER
TOWNSHIP 14 RANGE 18
SECTION 5**

For: Lancaster Municipal Gas
Date of Drawing: Sept.14, 2017



USB R2/2017/City of Lancaster
Ease Lanc Glass



BY: *Rodney McFarland* (9/14/17)
Registered Surveyor No.6416 Date

TOBIN-McFARLAND SURVEYING INC.

111 West Wheeling Street
Lancaster, Ohio 43130

Ph. 740-887-1710 Fax 740-887-0877