

TEMPORARY ORDINANCE NO. 9-20

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

AN ORDINANCE TO ACCEPT AN EASEMENT NECESSARY FOR A SANITARY SEWER

WHEREAS, the developers of the Flats on Memorial site require the vacation of public right-of-way within John D. Van Gundy's revision of the Colonial Heights Addition in order to move forward with their proposed development; and

WHEREAS, the City's Water Pollution Control Department (WPCD) identified the existing easements for the public sanitary sewers through the Flats on Memorial site to be inadequate to properly maintain/repair the sewers; and

WHEREAS, as a condition of granting the aforementioned right-of-way vacation, the WPCD has requested new easement acreage be established to allow for the proper maintenance/repair of the sewers on the property;

NOW THEREFORE 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 Commercial Properties, LLC	2.007 Acres	A

SECTION 2. As a condition, the grantor of the easement shall pay all costs associated with the acceptance of this easement. This shall include, but shall not be limited to, costs for preparing the easement documents, costs for all necessary surveys, and the recordings fees.

SECTION 3. That this ordinance shall take effect and be in force from the earliest period allowed by law.

Passed: \_\_\_\_\_ after \_\_\_\_\_ reading. Vote: Yeas \_\_\_\_\_ Nays \_\_\_\_\_

Approved: \_\_\_\_\_

\_\_\_\_\_  
President of Council

Clerk: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Offered by: \_\_\_\_\_

Second by: \_\_\_\_\_

Requested by Economic Development Committee

EASEMENT FOR SANITARY SEWER  
FROM  
FAIRFIELD COMMERCIAL PROPERTIES, LLC  
TO  
CITY OF LANCASTER, OHIO,  
AN OHIO MUNICIPAL CORPORATION

Know all men by these presents, that FAIRFIELD COMMERCIAL PROPERTIES, LLC, hereinafter referred to as Grantor, for good and valuable consideration to them in hand paid, receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey, to the CITY OF LANCASTER, OHIO, a Municipal Corporation, hereinafter referred to as Grantee, its successors and assigns, a permanent easement and right-of-way for a sanitary sewer line and appurtenances in and along the property described in Exhibit A, attached hereto:

This easement grants the Grantee the right and easement to enter and re-enter upon the above-described property to construct, install, repair, maintain, rebuild, replace, relocate, and/or remove, a sanitary sewer line and appurtenances, and forever to have and to hold such right for the purposes and under the conditions herein set forth.

A description of the easement and a drawing showing the exact location of the easement are attached hereto as Exhibit B.

Grantor hereby agrees to restrict the use of said property within the limits of the easement, from the construction thereon of any buildings of a permanent or temporary type. Grantor also agrees to restrict its use from the storing or placing of any materials, equipment or other obstructions thereon, or otherwise interfering with the access to, or the maintenance of said sanitary sewer line and appurtenances.

Grantor reserves the right to use the property within the limits of the easement for such uses not expressly prohibited or inconsistent with the rights and easement hereby granted.

It is the intent of this conveyance that neither the filing of this easement, its acceptance by the Grantee, nor any other circumstance, shall be construed as a dedication of the property described for public use as a street.

Grantor hereby warrants that Grantor has full power and authority to grant this easement and has a good and indefeasible fee simple title to the above described easement premises, free and clear of all liens and encumbrances, except those of record which do not unreasonably interfere with the uses herein described, and agrees to forever defend the above described easements and rights unto Grantee, Grantee's successors and assigns, against every person or entity lawfully claiming or to claim the easement property or any part of it, except as noted above.

This easement shall be binding on, and shall inure to the benefit of, the successors and assigns of the parties hereto. Where the term Grantor or Grantee is used herein, the term shall be deemed to include the successors and assigns of that party.

In addition to the easement, rights, and privileges conveyed in this instrument, Grantee shall have the right to use as much of the surface of the property of the Grantor as may be reasonably necessary to construct and install within the right of way granted hereby the facilities contemplated by this grant. Upon completion of the construction, installation, repair, maintenance, rebuilding, replacing, relocating, and/or removing of said sewer, Grantee shall replace and restore the surface to the condition it was in prior to said construction, installation, repair, maintenance, rebuilding, replacing, relocating, and/or removing of said sewer, with the exception of trees fell for necessary access.

The Grantee shall also have the right to use any portion of the Grantor's property, including private streets, roadways, paved areas and unpaved areas, insofar as necessary for the sole purpose to access the sewer easement with its equipment, personnel and materials, or by

Grantee's agents and contractors for the same purpose(s). The Grantee agrees to repair any damages to paved and/or unpaved areas to the extent its operations caused the damage.

Grantor claims title by instrument of record in official record/deed volume 1744, page 3531, of the records of the office of the Fairfield County Recorder's office.

This instrument prepared by the Department of Engineering, City of Lancaster, Ohio.

With intent to be legally bound, the parties have entered into this agreement this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Grantor:

\_\_\_\_\_

Lloyd Tracy Helber, authorized representative of Fairfield Commercial Properties, LLC

Grantee:

City of Lancaster, Ohio  
An Ohio Municipal Corporation

\_\_\_\_\_  
David L. Scheffler, Mayor

State of Ohio  
Fairfield County SS:

BEFORE ME, a Notary Public in and for said County and State, personally appeared the above named *[insert Grantor]*, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at

Lancaster, Ohio, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
*[insert name of notary]*  
Notary Public, State of Ohio  
My commission expires \_\_\_\_\_

Exhibit A:  
Legal Description of Property

## DESCRIPTION OF 18.939 ACRES FOR ZONING PURPOSES

Situated in the State of Ohio, County of Fairfield, City of Lancaster, Sections 35 & 36, Township 15, Range 19, United States Military Lands, and being part of a 14.751 acre tract of land and all of a 3.654 acre tract of land, conveyed to Fairfield Commercial Properties, LLC, of record in Official Record 1744, Page 3531, being part of vacated portion of Lowell Drive and Emerson Boulevard in John D. Vangundy's Revision of parts of Blocks 1-9 & 10 and Block 11 in Colonial Heights Addition, of record in Plat Book 8, Page 124, and being part of Lots 5 & 6 in Colonial Heights Addition, of record in Plat Book 6, Page 14, all references to records being on file in the Office of the Recorder, Fairfield County, Ohio, said 18.939 acre tract being more fully described herein;

**BEGINNING** at a 5/8" rebar found (Tobin McFarland) at a northwest corner of said 14.751 acre tract, the northeast corner of a 14.279 acre tract of land, conveyed to Fairfield Christian Church, of record in Official Record 1444, Page 1922, and being at an angle point in the south line of Lot 3 in Colonial Heights Addition Revision of a part of Block 7 and Block 9, of record in Plat Book 7, Page 73;

Thence, with the north line of said 14.751 acre tract, the south line of said Colonial Heights Addition Revision of a part of Block 7 and Block 9, the south line of Colonial Heights Addition Block 9, of record in Plat Book 7, Page 31, and the south line of Vangundy Subdivision of Block 10 Colonial Heights, of record in Plat Book 7, Page 2, the following six (6) courses:

1. South 55°25'19" East, a distance of 206.30 feet, to a 5/8" rebar found (Tobin McFarland);
2. South 83°07'05" East, a distance of 84.98 feet, to a 3/4" pinch top pipe found;
3. South 00°50'31" East, a distance of 104.89 feet, to a 5/8" rebar found (Tobin McFarland);
4. North 81°32'59" East, a distance of 395.02 feet, to an iron pin set;
5. North 82°30'24" East, a distance of 355.35 feet, to a rebar found in concrete;
6. South 30°58'07" East, a distance of 52.65 feet, to an iron pin set at the southeast corner of Lot 6 in said Vangundy Subdivision of Block 10 Colonial Heights;

Thence, North 45°06'47" East, a distance of 178.69 feet, with a line common to said 14.751 acre tract and the east line of said Lot 6, to an iron pin set on the south right-of-way line of North Columbus Street;

Thence, with the south right-of-way line of said North Columbus Street, the following two (2) courses:

1. With a curve to the right, having a radius of 542.96 feet, a delta angle of 05°36'51", an arc length of 53.20 feet, a chord bearing of South 41°36'32" East and a chord distance of 53.18 feet, to an iron pin set;
2. South 38°48'07" East, a distance of 187.80 feet, to an iron pin set at the northeast corner of said 3.654 acre tract, and the northwest corner of Lot 11 in said Vangundy Subdivision of Block 10 Colonial Heights;

Thence, with a line common with said 3.645 acre tract, the south line of said Vangundy Subdivision of Block 10 Colonial Heights, the west line of Avondale Addition, of record in Plat Book 4, Page 4, and the north line of Colonial Heights Addition, of record in Plat Book 6, Page 14, the following nine (9) courses:

1. South 51°31'09" West, a distance of 210.68 feet, to a 5/8" rebar found;
2. South 30°58'07" East, a distance of 277.09 feet, to a 5/8" rebar found in concrete;
3. South 47°53'13" West, a distance of 222.31 feet, to a 3/4" iron pipe found;

4. South 86°40'09" East, a distance of 123.75 feet, to a 5/8" rebar found;
5. South 53°07'42" West, a distance of 42.04 feet, to a 1/2" rebar found;
6. South 03°10'03" West, a distance of 66.13 feet, to a 1/2" rebar found;
7. North 70°36'14" West, a distance of 123.90 feet, to an iron pin set;
8. South 28°07'05" West, a distance of 61.41 feet, to a rebar found in concrete;
9. North 64°27'57" West, a distance of 226.15 feet, to an iron pin set at the southwest corner of said 3.654 acre tract;

Thence, with part of the vacated portion of Lowell Drive and Emerson Boulevard, the following five (5) courses:

1. North 71°28'33" West, a distance of 60.03 feet, to an iron pin set;
2. South 20°14'33" West, a distance of 86.01 feet, to an iron pin set;
3. North 44°45'26" West, a distance of 66.90 feet, to an iron pin set;
4. With a curve to the left, having a radius of 530.08 feet, a delta angle of 21°22'01", an arc length of 197.68 feet, a chord bearing of North 55°26'27" West and a chord distance of 196.54 feet, to an iron pin set;
5. North 66°07'27" West, a distance of 129.61 feet, to an iron pin set;

Thence, South 23°43'02" West, a distance of 134.02 feet, through said part of the vacated portion of Emerson Boulevard, and the east line of a tract of land, conveyed to Diann L. Helber, Trustee, of record in Official Record 1771, Page 1425, to an iron pin set;

Thence, through said Diann L. Helber tract, and said 14.751 acre tract, the following three (3) courses:

1. North 73°11'37" West, a distance of 540.89 feet, to an iron pin set;
2. North 15°42'03" East, a distance of 71.99 feet, to an iron pin set;
3. North 73°11'37" West, a distance of 175.38 feet, to an iron pin set on the west line of said 14.751 acre tract;

Thence, with the west line of said 14.751 acre tract, the east line of a 3.508 acre tract of land, conveyed to Barkley Holdings, LLC., of record in Deed Book 1738, Page 2124, the east line of a 1.206 acre tract of land, conveyed to Fairfield Christian Church, of record in Official Record 1634, Page 2129, and the east line of said 14.279 acre tract the following two (2) courses:

1. North 16°10'56" East, a distance of 317.11 feet, to a point;
2. North 50°41'22" East, a distance of 247.18 feet, to the **TRUE POINT OF BEGINNING**, containing 18.939 acres, subject to all easements and documents of record.

For the purpose of this description a bearing of North 73°11'37" West was determined for the south property line of a tract of land conveyed to Fairfield Commercial Properties of record in Official Record 1744, Page 3531, as based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2011 adjustment). Said bearing was established by Static and RTK GPS Observations, calculated using National Geodetic Survey, OPUS-S service performed on June 12 of the year 2019.

**CIVIL & ENVIRONMENTAL CONSULTANTS, INC.**

Exhibit B:  
Legal Description of Sanitary Sewer Easement and Drawing of  
Sanitary Sewer Easement

**Sanitary Easement Description**  
**2.007 Acre**  
**North of N. Memorial Drive**  
**South of Nelson Road**

-1-

Situated in the State of Ohio, County of Fairfield, City of Lancaster, Sections 35 & 36, Township 15, Range 19, United States Military Lands, being a 2.007 acre tract of land, said 2.007 acre tract being part of an Original 3.654 tract of land and an Original 14.751 acre tract of land both being conveyed to Fairfield Commercial Properties, LLC of record in Official Record 1744, Page 3531 and being part of a 1.051 acre tract of land described as Lowell Drive and being vacated, said 2.007 acres more particularly described as follows:

**Beginning** at the southeasterly corner of said Original 3.654 acre tract, at the northeasterly corner of a Lot 14, at the northwesterly corner of Lot 10 and the southwest corner of Lot 11 all of Block 1 of "John D. Vangundy Revision of Parts of Blocks 1-9 & 10 and 11 in Colonial Heights" of record in Plat Book 8, Page 124;

Thence N 28° 07' 05" E, along the easterly line of said Original 3.654 acre tract and along the westerly line of said Lot 11, 61.41 feet to an angle point in the Original 3.654 acre tract, the northwesterly corner of said Lot 11 and the southwest corner of Lot 12 of said Subdivision;

Thence S 70° 36' 14" E along a southerly line of said Original 3.654 acre tract and the common line of said Lot 11 and said Lot 12, 17.53 feet to a point;

Thence N 28° 39' 35" E, across said Original 3.654 acre tract and said Lot 12, 70.62 feet to a northerly line of said Original 3.654 acre tract and said Lot 12 and being in the southerly line of Lot 30 of "Avondale Addition" of record in Plat Book 4, Page 4;

Thence N 86° 40' 09" W, along a northerly line of said Original 3.654 acre tract and along the common line of said Lot 12 and said Lot 30, 19.83 feet to an angle point of said Original 3.654 and a common corner of said Lot 12 and said Lot 30;

Thence N 47° 53' 13" E, along the easterly line of said Original 3.654 acre tract and along the westerly line of said Lot 30, 222.31 feet to an easterly corner of said Original 3.654 acre tract and a southerly corner of Lot 14 of "Vangundy Sub-Div of Block 10 of Colonial Heights" of record in Plat Book 7, Page 2;

Thence N 30° 58' 07" W, along a northeasterly line of said Original 3.654 acre tract and along the southwest line of said "Block 10" plat, 277.09 feet to a common corner thereof, said point being the westerly corner of Lot 11 as delineated on said "Block 10" plat and being the southerly corner of Lot 10;

Thence N 51° 31' 09" E, along the southeasterly line of said Original 3.654 acre tract and along the common line of said Lot 10 and said Lot 11, 10.77 feet to a point;

Thence N 30° 55' 56" W, across said Original 3.654 acre tract, across said vacated Lowell Drive, across said Original 14.751 acre tract and across Lots 7-10 as delineated on said "Block 10" plat, 224.15 feet to a northwesterly line of said Original 14.751 acre tract and said Lot 7 and the southeasterly line of Lot 6 as delineated on said "Block 10" plat;

Thence S 45° 06' 47" W, along the northwesterly line of said Original 14.751 acre tract and along the common line of said Lot 6 and said Lot 7, 11.13 feet to a common corner thereof;

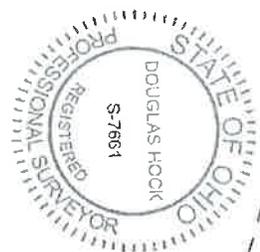
Thence N 30° 58' 07" W, along the northeasterly line of said Original 14.751 acre tract and the southwest line of said "Block 10" plat, 52.65 feet to a common corner thereof, said point being the southerly corner of Lot 5 of said "Block 10" plat;

Thence S 82° 30' 24" W, along the northerly line of said Original 14.751 acre tract and along the southerly line of said "Block 10" plat, 355.35 feet to a point at the southwest corner of said "Block 10" plat and the southeasterly corner of "Colonial Heights Addition Block 9" of record in Plat Book 7, Page 31;

Thence S 81° 32' 59" W, along the northerly line of said Original 14.751 acre tract and along the southerly line of said "Block 9" plat, 395.02 feet to a common corner thereof, said point being the southwest corner of Lot 5 of said "Block 9" plat;

Thence N 00° 50' 31" W, along the easterly line of said Original 14.751 acre tract and along the westerly line of said Lot 5, 104.89 feet to a northeasterly corner of said Original 14.751 and a southeasterly corner



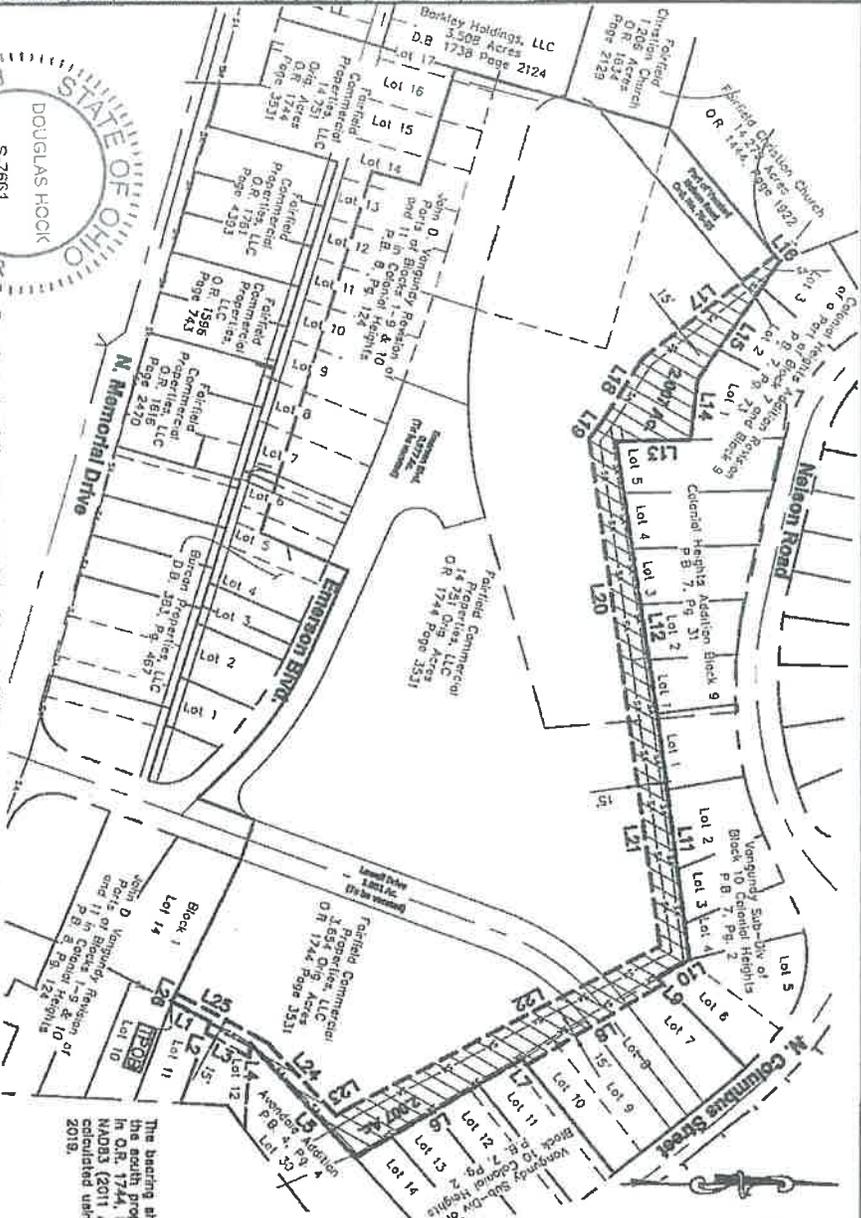


The above description was prepared by Advanced Civil Design Inc. on April 3, 2020 and is based on information obtained from the Fairfield Commercial Properties, LLC and an old survey prepared by CSC in June of 2019.

**ADVANCED CIVIL DESIGN, INC.**

Douglas R. Hook, P.S. 7661

Date: 4/6/2020



**Sanitary Sewer Easement**  
 ~2.007 Acre~  
 State of Ohio, County of Fairfield, City of Lancaster,  
 Sections 35 & 36, Township 15, Range 19,  
 United States Military Lands

LINE TABLE		LINE TABLE			
LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N28°07'05"E	61.41'	L14	N83°07'05"W	84.98'
L2	S70°36'14"E	17.53'	L15	N55°26'19"W	206.30'
L3	N28°39'35"E	70.62'	L16	S60°41'22"W	10.41'
L4	N86°40'09"W	19.83'	L17	S38°01'28"E	236.99'
L5	N47°53'13"E	222.31'	L18	S86°55'12"E	107.44'
L6	N30°58'07"W	277.09'	L19	S51°42'46"E	29.88'
L7	N51°31'09"E	10.77'	L20	N81°54'45"E	323.66'
L8	N30°55'56"W	224.15'	L21	N82°14'30"E	411.21'
L9	S45°06'47"W	11.13'	L22	S27°41'20"E	488.84'
L10	N30°58'07"W	52.65'	L23	S30°46'19"E	31.29'
L11	S82°30'24"W	355.35'	L24	S47°16'22"W	141.67'
L12	S81°32'59"W	395.02'	L25	S28°38'35"W	149.47'
L13	N00°50'31"W	104.89'	L26	S64°22'57"E	13.30'

The bearing shown on this survey are based on the bearing of N 73°11'37" W, as determined for the south property line of a tract of land conveyed to Fairfield Commercial Properties, LLC in O.R. 1744, Page 3531, as based on the Ohio State Plane Coordinate System, South Zone, NAD83 (2011 Adjustment). Said bearing was established by static and RTK GPS observations, calculated using National Geodetic Survey, OTHS-S Service performed on June 12 of the year 2019.

**ADVANCED CIVIL DESIGN**  
 ENGINEERS SURVEYORS

422 Beecher Road  
 Gahanna, Ohio 43230  
 PH 614.432.7750  
 FAX 614.432.7755

DRAWN BY: DRB  
 DATE: 03/19/20  
 CHECKED BY: BCK  
 JOB NO.: 19-0002-1044