

City's Copy
THIS INDENTURE OF LEASE, made and entered into this 1st day of April, 1960, in the City of Massillon, Stark County, Ohio, by and between the City of Massillon, Ohio, a municipal corporation, through its Director of Public Service and Safety, duly authorized by Ordinance No. 29 - 1959, hereinafter called Lessor, and The Campbell Oil Company, its successors and assigns, Lessee, witnesseth:

WHEREAS the City of Massillon, Ohio, is the owner of certain canal lands within the corporate limits of said City by virtue of a governor's deed from the State of Ohio;

WHEREAS, the City has a storm water sewer located in and running through the canal lands hereinafter described; and,

WHEREAS, said canal land as hereinafter described is not needed for any public purpose other than for said storm water sewer service;

NOW, THEREFORE, THIS LEASE:

The lessor hereby leases to the lessee, its successors and assigns the lands herein described, together with the right and privilege to said lessee, its successors and assigns, to occupy and use said lands for general business purposes for the term of fifteen (15) years, under the conditions and restrictions herein provided, to-wit:

Permission is given to lessee to occupy and use for general business purposes that portion of the Ohio Canal Land in the City of

Massillon, Stark County, Ohio, that is bounded and described as follows:

Beginning at a point on the West line of the Ohio Canal Land 185 feet North of the North Line of the property leased to the Wheeling and Lake Erie Railway Company, said point being 58 feet East of the West line of 1st St.S.W. and the true place of beginning of the parcel here-in described; thence northerly along the West line of said Ohio Canal Land 87.5 feet to the Southwest corner of Parcel No. 607 leased to the Pennsylvania Railroad Company; thence easterly along the South line of said Lease No. 607 a distance of 85 feet to the Southeast corner of said Lease No. 607, said point also being on the West line of Parcel No. 606 leased to the Pennsylvania Railroad Company; thence southerly along the West line of said Lease No. 606 a distance of 52 feet to the Southwest corner of said Lease No. 606; thence easterly along the South Line of said Lease No. 606 a distance of 128 ft. to a point on the West line of Erie Street South; thence southerly along the West line of Erie St.S. 19.8 feet to the Northeast corner of O.L. No. 46; thence westerly along the North line of O.L. 46 128 feet to a point on the East line of the Ohio Canal Land, said point being 185 feet North of the North line of a parcel leased to the Wheeling and Lake Erie Railway Company; thence westerly 82 feet to the place of beginning containing 9094 square feet or 0.21 Acres. This lease is granted with the understanding that no structures are to be placed thereon and that the City of Massillon retains the right to maintain and reconstruct the Storm Sewers underground of this lease. Also known as part of Out Lot No. 383, according to the present numbering of Out Lots of the City of Massillon, Ohio.

THIS LEASE IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS:

1. That the lessee shall keep all public sidewalks abutting upon the leased premises in good repair to the satisfaction of the Director of Public Service and Safety of the lessor, and the lessee shall save the City of Massillon harmless against any and all claims for damages or otherwise for which the City may be held liable by reason of the failure to keep said sidewalks in good repair.

~~2. That the lessee be and he is authorized to maintain and use existing basements now located under the sidewalks adjacent to the premises herein leased.~~

~~3. It is further agreed between the parties hereto, that the buildings erected over the canal property herein leased shall at the expiration or termination of this lease, be and remain the property of the lessee, in case the lease is not renewed, with the privilege of removing said building or buildings prior to the expiration of the lease, providing all rentals thereon due the lessor are paid in full prior to such removal.~~

4. That this lease is granted for a period of fifteen (15) years beginning on the date first above written; provided, however, that Lessee shall have the right of first refusal to a lease of the premises for an additional fifteen (15) years. Such right shall be exercised by notice in writing to the Safety-Service Director of the City not less than 30 days prior to the expiration of this lease.

Nothing in this paragraph shall be construed as imposing upon the City any obligation to lease the premises beyond the expiration date hereof or in addition to the term herein granted.

~~5. That this lease is granted with the understanding that the weight of any buildings upon the leased premises is not to be carried on an existing storm water sewer in said tract or on any such storm or sanitary sewers that the City shall from time to time deem necessary to construct;~~ that the city reserves the right to construct, reconstruct, maintain and improve sanitary and storm sewers and public utility facilities upon the leased premises; and that the lessee shall be responsible for any and all damage to said storm or other sewers or public utility facilities resulting from its acts or the acts of its agents, sub-lessees or assigns.

6. The lessee, its successors and assigns, may, with the written consent of the Director of Public Service and Safety of the lessor, assign all right, title and interest in this lease to any responsible party, provided that at the time said assignment is made, all rentals due hereunder are paid to date in full, but such assignment of lease shall not release said lessee, its successors and assigns, from a continuing liability for said rentals in the event their assignee fails to pay them without the written consent of the Director; ~~and the lessee, its successors and assigns, shall have the right with the written consent of the Director to mortgage said premises, provided that said mortgages thereunder shall take said security subject to all of the provisions of this lease.~~)

7. If the lessee shall do, or permit to be done, any act or thing herein prohibited, or shall in any respect violate the terms of this agreement, then, and in either case, all the rights and privileges derivable to said lessee from this agreement shall, at the option of the lessor, cease and terminate, and said lessee shall be liable for any and all damages consequent upon such violation of this agreement.

8. Lessee shall pay to the lessor during the term of this lease an annual rental of One Hundred Twenty Five Dollars (\$ 125.00) per annum in semi-annual installments of Sixty two dollars & Fifty cents Dollars (\$ 62.50) each in advance, payable on May 1st and November 1st of each year. In the event of a lease for an additional 15 years upon expiration of this lease, under the right of renewal provided in item No. 4 of this agreement, the rental to be paid for such additional term shall be determined and fixed by the City's valuation and rent formula then applicable.

It is distinctly understood and agreed that the lessee, its successors and assigns, shall not permit said leased premises to be used for any illegal purpose. It is further understood and agreed that if any installment of rent agreed to be paid under this lease shall not be paid at the time the same shall fall due, or within ten (10) days thereafter, whether a demand therefor shall, or shall not be made, then this lease shall, at the option of the lessor hereto, become and be null and void as against the City of Massillon, and the lessee so in default, its successors and assigns, or any party in possession of the premises leased, shall yield possession of the same to the said lessor or its authorized agent; and the said lessor

or its authorized agent, in case of default of the payment of the rent as aforesaid, may at any time, without any demand or notice whatever given the lessee, its successors and assigns, or the party in possession of the premises, enter upon and take possession of the premises herein leased on behalf of the City; provided, however, that in the event that the lessee, its successors and assigns, shall be in default for payment of any semi-annual rental payment due hereunder, the lessor, before declaring a forfeiture of this lease shall give written notice of such default to any mortgagee of the lessee and such mortgagee shall have the right and privilege of paying to the lessor the delinquent payment or payments due under the lease within ten (10) days of receipt of such written notice of default.

It is also further agreed and understood that if said lessee fails to comply with any of the conditions of this lease, as herein set forth, then this lease shall, at the option of the said lessor, become null and void, as to the lessee, and it is expressly agreed and understood that the receipt of rental after any act of forfeiture hereof by the lessee hereto, shall not be held to be a waiver by the lessor of its right to declare such forfeiture and cancel this lease, after the rental so taken has been earned under the terms of this lease, and the lessor may enter upon and take possession without notice or other legal process.

The lessor hereby covenants and agrees that the lessee shall and will upon payment of the rents herein provided to be paid by the tenant, and upon fully observing and performing the covenants and agreements herein provided to be observed and performed by the tenant, quietly and peaceably possess and enjoy said above described premises subject only to the terms of said lease during the full term of this lease, unless said lease be sooner terminated under and in accordance with any of the provisions herein contained, providing for such termination.

IN WITNESS WHEREOF, the parties herein have hereunto set their hands the day and year first above written.

In the presence of:

Helew G. Bader

R. G. Schumbe
Isabel H. De Hoff

THE CITY OF MASSILLON, OHIO.

By James H. Power
Director of Public Service
and Safety

THE CAMPBELL OIL COMPANY

By G. T. Campbell
President

STATE OF OHIO, COUNTY OF STARK, SS:

On this 1st day of april, 1960, before me, a Notary Public, in and for said County, came James A. Bower, Director of Public Service and Safety, of the City of Massillon, Ohio, the officer having charge of the real estate described, and acknowledged the execution of the foregoing lease to be his voluntary act on behalf of the City of Massillon, and the corporate act and deed of said City of Massillon.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal the day and year last aforesaid.

HELEN G. BADER, Notary Public
My Commission Expires March, 1961

Helen G. Bader

R.G. SCHIMKE, Notary Public, State of Ohio
My Commission Expires Jan. 22, 1962

Notary Public

April, 1960: The foregoing is hereby approved by me as to form and sufficiency.

Richard A. Mair
CITY SOLICITOR

STATE OF OHIO) SS:
STARK COUNTY)

Before me, a Notary Public, in and for said County and State, personally appeared Chester K. Campbell, president of Campbell Oil Company, the Corporation which executed the foregoing instrument, who acknowledged that the seal affixed to said instrument is the corporate seal of said Corporation; that he did sign and seal said instrument as such president in behalf of said Corporation and by authority of its Board of Directors; that said instrument is his free act and deed individually and as such president and the free corporate act and deed for Campbell Oil Company.

In testimony whereof, I have hereunto subscribed my name and affixed my official seal at Massillon, Ohio, this thirty-first day of March, 1960.

R. G. Schimke