

ORDINANCE NO. 23-040

AN ORDINANCE ESTABLISHING AN ACCESS EASEMENT ON PORTIONS OF PARCEL NOS. 56-00983.000 AND 56-00984.000 OWNED BY THE CITY AND LOCATED SOUTH OF EAST MARKET STREET AND EAST OF WARREN STREET FOR RESIDENTIAL DEVELOPMENT; AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE THE DEED AND DECLARATION OF EASEMENTS; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City Commission approved the acquisition of property located at 513 E. Washington Street (Parcel Nos. 56-00983.000 and 56-00984.000) and 430 E. Market Street (Parcel No. 56-00985.000), commonly known as Sandusky Cabinets, for the purpose of remediation and future development by Ordinance No. 09-026, passed on April 13, 2009; and

WHEREAS, the City is in the process of subdividing a portion of Parcel No. 56-00983.000 to create three (3) parcels of land for single-family residential development; and

WHEREAS, this City Commission approved an Exclusive Right to Sell Agreement with Russell Real Estate Services of Sandusky, Ohio, for the marketing and sale of these parcels by Ordinance No. 23-003, passed on January 9, 2023; and

WHEREAS, prior to the sale of the three (3) parcels, City Staff desires to establish certain rights, privileges, burdens and benefits connected to the three (3) parcels located at Parcel No. 56-00983.000 and on Parcel No. 56-00984.000 by creating a nonexclusive access easement over the parcels for vehicular and pedestrian access and ingress and egress and to establish maintenance responsibilities for the easement; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to establish the access easement and allow for the sale of three (3) parcels for residential development and ensure closings in a timely manner; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Community Development, of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission approves the establishment of an access easement on portions of Parcel Nos. 56-00983.000 and 56-00984.000 owned by the City and located south of East Market Street and East of Warren Street and authorizes and directs the City Manager to execute the Deed and Declaration of

Easements on behalf of the City, for the purpose of residential development, a copy of which is attached and marked Exhibit "1" and is specifically incorporated as if fully rewritten herein, together with any revisions or additions as are approved by the Law Director as not being substantially adverse to the City and consistent with carrying out the City's public purpose.

Section 2. The City Manager is authorized and directed to execute any other documents necessary for the Access Easement as approved by the Law Director as being consistent with the objectives and requirements of this Ordinance.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: February 27, 2023

DEED AND DECLARATION OF EASEMENTS

KNOW ALL PERSONS BY THESE PRESENTS THAT: the City of Sandusky, a Municipal Corporation, of the State of Ohio having its principal offices at 240 Columbus Avenue, Sandusky, Ohio 44870, the Grantor herein, for good and valuable consideration thereunto given, and a sum of one dollar (\$1.00) grants with limited warranty, to the City of Sandusky, a Municipal Corporation, of the State of Ohio whose tax mailing address is 240 Columbus Avenue, Sandusky, Ohio 44870 the following REAL PROPERTY:

See Exhibit A attached hereto

Prior Deed Reference: RN 200905779
Current Permanent Parcel Number: 56-00983.000 and 56-00984.000
Address: 513 Washington Street

Subject to conditions, restrictions, and easements, contained in prior instruments and this instrument of record.

DECLARATION OF ACCESS EASEMENT

This Declaration of Access Easements is made on February ____, 2023, by the City of Sandusky, a Municipal Corporation, of the State of Ohio having its principal offices at 240 Columbus Avenue, Sandusky, Ohio 44870, the Declarant herein.

Declarant is the fee simple owner of the land located in City of Sandusky, Erie County, State

of Ohio which is described in Exhibit A attached to and by this reference incorporated in this Declaration (the "Property").

Declarant desires to reserve and establish certain rights, privileges, burdens and benefits of the Property in connection with creating a nonexclusive access easement.

Now, therefore, Declarant declares and consents that the Property is and shall be held, transferred, sold, conveyed, split, sub-divided, leased, rented, mortgaged, occupied, used and otherwise disposed of subject to the following easements, covenants, obligations, charges and assessments:

Declarant reserves, declares, establishes, creates and grants over the Property for the benefit of each Owner (as defined below) a perpetual, nonexclusive right, privilege and easement over that portion of the Property described in Exhibits B attached to this Declaration (the "Access Easement") for vehicular and pedestrian access, ingress and egress on, over, across and through the drive lanes, exits, curb cuts and drive aisles located in the parking areas located on the Property as an appurtenance to and as a burden on and encumbrance to the Property.

Any Owner shall be responsible for maintaining their own part of the Property and the improvements on the Property, at such Owner's sole cost and expense, including, but not limited to, the easement areas located on the Property as described in this Declaration.

No building or other structure or obstruction shall be permitted or maintained within the Access Easement, nor shall the grade of the Access Easement be altered so as to materially interfere with the use of the Access Easement as contemplated in this Declaration, except that paving, curbing, striping, landscaping, light poles and signage or similar easily moved improvements that do not materially interfere with the use of the Access Easement described in this Declaration shall be permitted.

For the purposes of this Declaration, "Owner" means, in the singular and plural, as the case may be, any persons or entities owning from time to time fee simple title to all or a portion of the Property, and their successors and assigns. Each of the Owners of the Property and any persons or entities owning from time to time fee simple title to all or a portion of the adjacent property described in Exhibit C attached to and by this reference incorporated in this Declaration (the "Adjacent Property") (the "Adjacent Owners"), shall have the right to use the Access Easement and grant the right to use the Access Easement to its employees, tenants, and licensees. Notwithstanding the foregoing, none of the easements created in this Declaration are intended to create any rights to the public.

The rights, agreements, duties, obligations and easements set forth in this Declaration shall run with the land, binding upon and benefiting and burdening the Owners of the Property and the Adjacent Owners of the Adjacent Property and every portion of the Property and Adjacent Property, and their successors, assigns and legal representatives. Any transferee of any portion of the Property shall automatically be deemed, by acceptance of the title to such property, to have assumed all obligations of this Declaration relating to the Property to the extent of such transferee's interest in the transferred portion of the Property, and the transferor shall upon completion of such transfer be relieved of all further liability under this Declaration except liability with respect to matters that may have arisen during its period of ownership, if any.

There shall be no merger of the easement granted, established and created by this Declaration with the fee estate of any party, by reason of the fact that a party or any one or more of the Owners may own or hold (a) the estate or interest encumbered by such easement and (b) the fee estate of the Property; and no such merger shall occur until such parties and such Owner or Owners, as the case may be, execute a written statement or instrument affecting such merger and shall duly

record the same.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand the _____ day of _____, 20____.

Grantor:
City of Sandusky, a Municipal Corporation

John Orzech
Interim City Manager

STATE OF OHIO)
) ss:
ERIE COUNTY)

Before me, a Notary Public in and for said County and State, personally appeared the above named John Orzech, Interim City Manager for the Grantor, who acknowledged that he did sign the foregoing instrument, that the same was his free act and deed and it is the free and voluntary act and deed of the City of Sandusky.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Sandusky, Erie County, the State of Ohio, this _____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires: _____

This Instrument Prepared By:
Brendan L. Heil
Law Director
City of Sandusky
Sandusky, Ohio 44870
(419) 627-5852

**LANDS OF CITY OF SANDUSKY
NORTH OF WASHINGTON STREET, EAST OF WARREN STREET
& SOUTH OF MARKET STREET
1.7290 ACRES**

Situate in the State of Ohio, County of Erie, City of Sandusky, Ward 1, being part of Lots 10 and 12 and all of Lot 14 on Warren Street and all of Lots 19, 21 and 23 on Washington Street in the Old Town Plat of City of Sandusky, P.V. 1, Pg. 1, and being Parcel No. 2 of those lands of the City of Sandusky described in RN 200905779, all references herein to the Erie County Recorder, more particularly described as follows:

Beginning at a 1" iron rod in a monument box found at the intersection of centerlines of Market Street (82.5 feet in width) with Warren Street (66 feet in width); thence, S 24°02'57" E with the centerline of Warren Street, a distance of 41.25 feet to a point at the westerly extension of the southerly right of way line of Market Street; thence, N 65°47'53" E with said extension, a distance of 33.00 feet to a 5/8" iron rod set at the northwesterly corner of Lot 10 on Warren Street and the **TRUE POINT OF BEGINNING** for this description;

thence continuing, N 65°47'53" E with said right of way line, a distance of 165.69 feet to a drill hole found in the northwesterly corner of lands of S.A. Knowles, D.V. 447, Pg. 965;

thence, S 24°04'16" E with said lands and through Lots 10 and 12 on Warren Street, a distance of 133.66 feet to a 5/8" iron rod set;

thence, N 65°47'27" E with said lands and with the northerly line of Lot 14 on Warren Street, a distance of 33.11 feet to a 1/2" iron rod found in the northwesterly corner of Lot 13 on Perry Street;

thence, S 24°02'40" E with the westerly line of Lot 13 Perry Street and said lands of Knowles and with the westerly line of Lot 17 Washington Street and lands of Erie County Housing Opportunities, Inc., RN 200007154, a distance of 267.31 feet to a point referenced by a 1/2" iron rod found 0.26 feet east in the northerly right of way line of Washington Street (99 feet in width), passing at 66.84 feet a 1/2" iron rod found at the southwesterly corner of Lot 13 on Perry Street;

thence, S 65°45'16" W with said northerly right of way line of Washington Street and the southerly line of Lots 19, 21 and 23, a distance of 198.83 feet (previously recorded as 198.80 feet) to a railroad spike set in the easterly right of way line of Warren Street;

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Legal Description

thence, N 24°02'57" W with said easterly right of way line of Warren Street and the westerly lines of Lot 23 on Washington Street and Lots 10, 12 and 14 on Warren Street, a distance of 401.12 feet (previously recorded as 401.03 feet) to the point of beginning, containing 1.7290 acres (75,316 S.F.) of land, more or less, subject to legal highways and easements of record.

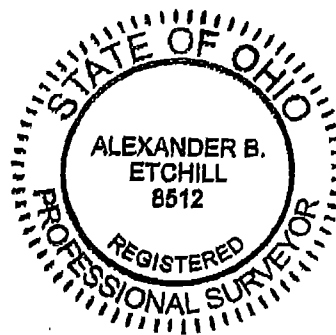
This description was prepared by Alexander B. Etchill, P.S., Ohio R.L.S. 8512 from an actual field survey of the premises conducted in December, 2011. Bearings herein are based upon a record deed bearing of S 24°02'57" E for the centerline of Warren Street.

John Hancock & Associates, Inc.

Alexander B. Etchill
Alexander B. Etchill, P.S.

Date: JANUARY 3, 2012 ABE

File: projects on server/158111/docs/1581-legal.doc



Sections 4703-57 thru 4705-67 of the Ohio
Administrative Code only. No Field Verifications
for Accuracy made.

[Signature]
Erie County Engineer

Date: 1/03/12

**Contractors Design Engineering
Consulting Engineers and Surveyors
1623 Old State Road, Norwalk, Ohio 44857**

**Legal Description For:
The City of Sandusky, Ohio
Ingress/Egress Easement
0.0684 Acres**

Being a parcel of land 18 feet in width for Ingress/Egress Easement purposes located in part of Lot 14 on Warren Street, Ward 1, City of Sandusky, Erie County, Firelands Connecticut Western Reserve, State of Ohio, and further particularly described as follows:

Beginning at a 1" iron found at the intersection of the centerlines of Market Street (82.5' R/W) and Warren Street (66' R/W); Thence South 23° 38' 34" East, along the centerline of Warren Street, a distance of 41.25 feet to a point; Thence North 66° 18' 34" East, a distance of 33.00 feet to a 5/8" iron rod set at the intersection of the easterly right-of-way line of Warren Street and the southerly right-of-way line of Market Street; Thence South 23° 38' 34" East, along the easterly right-of-way line of Warren Street, a distance of 133.99 feet to a 5/8" iron rod set at a northwesterly corner of Lot 14 and being the principal place of beginning;

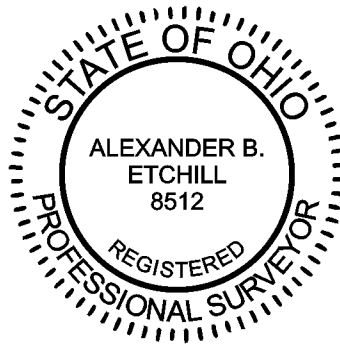
1. Thence North 66° 11' 50" East, along the northerly line of Lot 14, a distance of 165.56 feet to a 5/8" iron rod set at a southwesterly corner of land now or formerly owned by Shirley A. Murray, Trustor as recorded in RN 201504861 of the Erie County Recorder's Office;
2. Thence South 23° 39' 53" East, a distance of 18.00 feet to a 5/8" iron rod set;
3. Thence South 66° 11' 50" West, a distance of 165.57 feet to a 5/8" iron rod set at the easterly right-of-way line of Warren Street;
4. Thence North 23° 38' 34" West, along the easterly right-of-way line of Warren Street, a distance of 18.00 feet to the principal place of beginning, and containing 0.0684 acres (2,980.1893 sq. ft.) of land more or less, but subject to all legal highways, easements and restrictions of record.

Bearings are based on Grid North of the Ohio State Plane Coordinate System, NAD83 Datum, Geoid 12A, by ODOT VRS.

Prior Deed Reference: RN 200905779

All 5/8" iron rods set are 30" long rebar with yellow plastic caps stamped "C.D. ENG 8456 & 8512".

This description was prepared by Contractors Design Engineering, (Consulting Engineers and Surveyors, Norwalk, Ohio) in December, 2022 per Alexander B. Etchill, Registered Surveyor No. 8512 from an actual survey performed October, 2022 on the premises by Contractors Design Engineering.



Situated in State of Ohio, County of SPQ

Parcel 1: Being the easterly one-sixth ($1/6$) of Lots Numbers Ten (10) and Twelve (12) on Warren Street.

Parcel 2: Being the westerly 87.91 feet of Lots Numbers Nine (9) and Eleven (11) on Perry Street.

Parcel 3: Being the southerly ten (10) feet of the northerly sixty-four (64) feet of the easterly one hundred eleven (111) feet of Lot Number Eleven (11) on Perry Street.

Parcel 4: Being the west 47.91 feet of Lot Number Thirteen (13) on Perry Street.

Parcel 5: Being the west forty (40) feet of the north 31.6 feet of the east 151 feet of Lot Number Thirteen (13) on Perry Street.