

ORDINANCE NO. 23-154

AN ORDINANCE APPROVING AN EASEMENT AGREEMENT GRANTING PERMANENT AND TEMPORARY EASEMENTS TO THE CITY BY THE TOFT DAIRY, INC. FOR THE SANDUSKY BAY PATHWAY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Sandusky Bay Pathway is a coastal trail that stretches along the waterfront from the east corporation limit to the west corporation limit with several other on-street and off-street trails networking City roads and the City-wide park system; and

WHEREAS, the City Commission authorized and directed the City Manager to enter into an agreement for professional design services with Environmental Design Group, LLC, of Akron, Ohio, to complete pathway alignments, final engineering, landscape architectural design, environmental permitting, and acquisition services for certain sections of the Sandusky Bay Pathway, by Ordinance No. 19-115, passed on June 24, 2019; and

WHEREAS, Toft Dairy, Inc. is the owner of property located north of Venice Road and west of Edgewater Avenue, Parcel No. 60-00568.000, and is granting the City two (1) permanent and two (2) temporary easements necessary for the continuation of the Sandusky Bay Pathway; 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 to allow the consultant to proceed with finalizing construction plans for the next phase of the Sandusky Bay Pathway; 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 Public Works, 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 an Easement Agreement granting one (1) Permanent Easement and two (2) Temporary Easements to the City by Toft Dairy, Inc. for the purpose of utilizing for the Sandusky Bay Pathway, 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 terms of this Ordinance.

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Section 2. 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 3. 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 4. 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: July 24, 2023

Easement Agreement

This Easement Agreement (the "Agreement") is made and entered into this _____ day of _____, 2023, between the City of Sandusky (the "Grantee") whose mailing address is 240 Columbus Avenue, Sandusky, Ohio 44870, and Toft Dairy, Inc., (the "Grantor") whose mailing address is 3717 Venice Road, Sandusky, Ohio 44870.

WHEREAS, the Grantor is the owner of the property with the parcel number 60-00568.000, which is more particularly described in Exhibit "A"; and

WHEREAS, the Grantee desires the easements contained herein in order to complete the Sandusky Bay Pathway;

THEREFORE, in consideration of the promises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. Grantor's Grant of Easements.

- a. Grantor grants and conveys to the Grantee a perpetual and exclusive permanent easement for the Sandusky Bay Pathway, which is more particularly described in the easement and legal description attached hereto as Exhibit B. The Grantee may do and perform all acts necessary to fulfill its obligations in accordance with this easement.
- b. Grantor grants and conveys to the Grantee two temporary easements to access, occupy, and construct the Sandusky Bay Pathway, which is more particularly described in the easements and legal descriptions attached hereto as Exhibit C and Exhibit D. These temporary easements shall last until the Grantee's construction ends. The Grantee may do and perform all acts necessary to fulfill its obligations in accordance with these easements.

2. Grantee's Obligations.

- a. Grantee shall ensure that the Sandusky Bay Pathway is maintained, which includes landscaping and mowing.
- b. The Grantee shall restore the easement areas described in Exhibit B, Exhibit C, and Exhibit D to similar conditions within sixty (60) days after the conclusion of the construction activities.

3. Representation and Warranties.

- a. Grantor represents and warrants to Grantee that: (a) it has the full right, power, title, and interest to make the grant of easements to Grantee; (b) such grant of easements and any rights granted under this Agreement may be fully and thoroughly enjoyed and utilized by Grantee pursuant to the terms herein; and (c) Grantee's easements rights shall not be defeased, impaired, and adversely affected by superior title.

4. Notices.

- a. Any notices required to be given to the Grantor or Grantee shall be given by certified mail, return receipt requested, or by a national delivery service which obtains a receipt for delivery, at the addresses set forth in the first paragraph of this Agreement, or to

such other address as a party may designate from time to time by giving notice to the other party.

5. Successors and Assigns.

- a. The terms and conditions of this Agreement shall bind and inure to the benefit of the Grantor and Grantee and their respective heirs, executors, administrators, successors and assigns, subject to any and all matters of record which affect title to the easement area.

6. Covenant Running With the Land.

- a. The terms and conditions of these easements shall constitute a covenant running with the land and shall be binding upon and all inure to the benefit of the Grantor and Grantee and their respective heirs, executors, administrators, successors and assigns, subject to any and all matters of record which affect title to the easement area.

Signature Page to Follow

GRANTOR:
Toft Dairy, Inc.

By: _____

Name: _____

Title: _____

GRANTEE:
City of Sandusky

By: _____

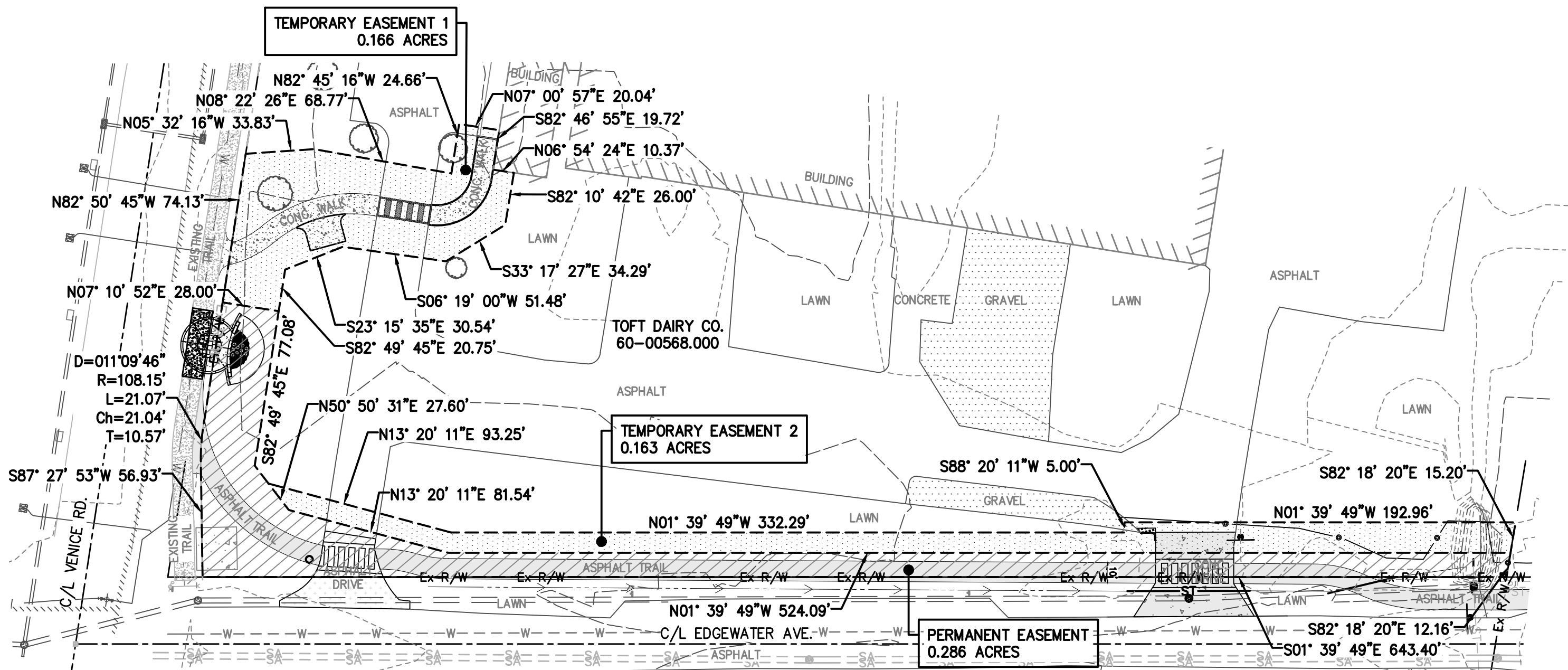
Name: John Orzech

Title: Interim City Manager

Approved as to Form:

Sarah S. Chiappone
Assistant Law Director (#0101179)

E:\SANDUSKY\1720196420 BAY PATHWAY DESIGN\CADD\EXHIBITS\EASEMENT EXHIBITS\60101\TOFT DAIRY CO.DWG - 7/7/2023 9:07:45 AM



PERPETUAL PERMANENT EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS: That, **Toft Dairy, Inc.**, herein referred to as the Grantor, whose mailing address is 3717 Venice Road, Sandusky, Ohio 44870, for and in consideration of the sum of one dollar(s) (\$1.00) and other good and valuable consideration paid by **the City of Sandusky**, herein referred to as the Grantee, whose tax mailing address is 240 Columbus Avenue, Sandusky, Ohio 44870, the receipt and sufficiency of which is hereby acknowledged, does hereby **GRANT, BARGAIN, SELL, CONVEY, AND RELEASE** to the Grantee, its successors and assigns forever, a perpetual and exclusive permanent Easement to have access to construct, lay, maintain, and repair the Sandusky Bay Pathway, at any time or times hereafter, for the area in Exhibit A, including the right of ingress to and egress from and over said premises (real estate) situated in the County of Erie and State of Ohio, and described as:

SEE ATTACHED "LEGAL DESCRIPTION", INCORPORATED HERETO.

SEE ATTACHED EXHIBIT "A", INCORPORATED HERETO FOR ILLUSTRATION PURPOSES ONLY.

(all bearings stated above are assumed for the purpose of this description)

The Grantor claims title to the above described properties by virtue of an instrument recorded in Vol. 517 Page 985, Erie County Recorder's Office.

The consideration recited herein shall constitute full and final payment for said Easement and all damages sustained and/or claimed by the Grantor, its executors, administrators, successors, and assigns, including but not limited to all damages to the remainder of the Grantor's real estate, that arise from or by reason of inspection or other proper and allowed acts as stated above, said damages include but are not limited to those known or unknown, those legal, equitable or otherwise and those direct, incidental or consequential.

TO HAVE AND TO HOLD said Easement, together with all rights and privileges belonging thereto unto the Grantee and its successors and assigns forever. This Easement together with all agreements, covenants, and other provisions recited herein, shall constitute a covenant running with the land for the benefit and use of the Grantee, its successors and assigns forever.

The Grantor and signatories hereto, hereby covenant that it is the true and lawful Owner of the above described real estate and has full power and authority to convey the same; that the same is free and clear from all liens and encumbrances whatsoever and that the Grantor will warrant and defend the title to the said easement against all lawful claims.

IN TESTIMONY WHEREOF, _____, the Grantor, has
executed this Perpetual Permanent Easement this _____ day of
_____, 2023.

STATE OF OHIO }
 }
COUNTY OF ERIE } SS:

Before me a Notary Public in and for said County, personally appeared the above named,
proper signatory for the Grantor, who acknowledged he did sign the foregoing instrument and
that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this _____ day of
_____, 2023.

Notary Public

THIS INSTRUMENT PREPARED BY:

Brendan L. Heil
City of Sandusky Law Director
240 Columbus Avenue
(419) 627-5852

CITY OF SANDUSKY
PPN 60-00568.000 PERMANENT EASEMENT
TOFT DAIRY CO.

Situated in the State of Ohio, County of Erie, and the City of Sandusky, and is part of land now or formerly owned by Toft Dairy Co. (PPN 60-00568.000) by deed recorded in Document Number 202001927 of the Erie County Records and being more fully described as follows:

Commencing at the intersection of the northeast corner of said Toft Dairy Co. parcel and the west right of way line of Edgewater Avenue and being the Place of Beginning for the easement herein described;

1. Thence S 01° 39' 49" E along the west right of way line of said Edgewater Avenue, a distance of 643.40 feet to the southeast corner of said parcel and being the intersection of the west right of way line of said Edgewater Avenue and the north right of way line of Venice Road;
2. Thence S 87° 27' 53" W along the north right of way line of said Venice Road, a distance of 56.93 feet to a point;
3. Thence continuing along the north right of way line of said Venice Road along a curve to the right, having a radius of 108.15 feet, a delta angle of 11° 09' 46", a chord distance of 21.04, a tangent of 10.57 feet, a distance of 21.07 feet to a point;
4. Thence N 82° 50' 45" W continuing along the north right of way line of said Venice Road, a distance of 58.35 feet to a point;
5. Thence N 07° 10' 52" E a distance of 28.00 feet to a point;
6. Thence S 82° 49' 45" E a distance of 77.08 feet to a point;
7. Thence N 50° 50' 31" E a distance of 27.60 feet to a point;
8. Thence N 13° 20' 11" E a distance of 81.54 feet to a point;
9. Thence N 01° 39' 49" W a distance of 524.09 feet to a point on the north line of said Toft Dairy Co. parcel;
10. Thence S 82° 18' 20" E along the north line of said Toft Dairy Co., a distance of 12.16 feet to the Place of Beginning, and containing 0.286 acres of land more or less.



July 3, 2023

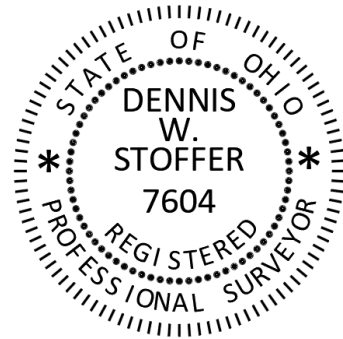
CITY OF SANDUSKY
PPN 60-00568.000 PERMANENT EASEMENT
TOFT DAIRY CO.

This easement description and basis of bearing are based on a survey as provided by Contractors Design Engineering, LTD. to Environmental Design Group.

The above described easement lies within Erie County Auditor Parcel Number 60-00568.000

A handwritten signature in blue ink that reads "Dennis W. Stoffer".

Dennis W. Stoffer, P.S. 7604



TEMPORARY EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS: That, **Toft Dairy, Inc.**, herein referred to as the Grantor, whose mailing address is 3717 Venice Road, Sandusky, Ohio 44870, for and in consideration of the sum of one dollar(s) (\$1.00) and other good and valuable consideration paid by **the City of Sandusky**, herein referred to as the Grantee, whose tax mailing address is 240 Columbus Avenue, Sandusky, Ohio 44870 the receipt and sufficiency of which is hereby acknowledged, does hereby **GRANT, BARGAIN, SELL, CONVEY, AND RELEASE** to the Grantee, its successors and assigns, a Temporary Easement to have access to construct and lay the Sandusky Bay Pathway until the completion of construction for the area in Exhibit A, including the right of ingress to and egress from and over said premises (real estate) situated in the County of Erie and State of Ohio, and described as:

SEE ATTACHED "LEGAL DESCRIPTION", INCORPORATED HERETO.

SEE ATTACHED EXHIBIT "A", INCORPORATED HERETO FOR ILLUSTRATION PURPOSES ONLY.

(all bearings stated above are assumed for the purpose of this description)

The Grantor claims title to the above described properties by virtue of an instrument recorded in Vol. 517 Page 985, Erie County Recorder's Office.

The consideration recited herein shall constitute full and final payment for said Easement and all damages sustained and/or claimed by the Grantor, its executors, administrators, successors, and assigns, including but not limited to all damages to the remainder of the Grantor's real estate, that arise from or by reason of inspection or other proper and allowed acts as stated above, said damages include but are not limited to those known or unknown, those legal, equitable or otherwise and those direct, incidental or consequential.

TO HAVE AND TO HOLD said Easement, together with all rights and privileges belonging thereto unto the Grantee and its successors and assigns until the completion of the construction. This Easement together with all agreements, covenants, and other provisions recited herein, shall constitute a covenant running with the land for the benefit and use of the Grantee, its successors and assigns until the completion of construction.

The Grantor and signatories hereto, hereby covenant that it is the true and lawful Owner of the above described real estate and has full power and authority to convey the same; that the

same is free and clear from all liens and encumbrances whatsoever and that the Grantor will warrant and defend the title to the said easement against all lawful claims.

IN TESTIMONY WHEREOF, _____, the Grantor, has executed this Temporary Easement this _____ day of _____, 2023.

STATE OF OHIO }
 }
COUNTY OF ERIE } SS:

Before me a Notary Public in and for said County, personally appeared the above named, proper signatory for the Grantor, who acknowledged he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2023.

Notary Public

THIS INSTRUMENT PREPARED BY:

Brendan L. Heil
City of Sandusky Law Director
240 Columbus Avenue
(419) 627-5852

CITY OF SANDUSKY
PPN 60-00568.000 TEMPORARY EASEMENT 1
TOFT DAIRY CO.

Situated in the State of Ohio, County of Erie, and the City of Sandusky, and is part of land now or formerly owned by Toft Dairy Co. (PPN 60-00568.000) by deed recorded in Document Number 202001927 of the Erie County Records and being more fully described as follows:

Commencing at the intersection of the west right of way line of Edgewater Avenue and the north right of way line of Venice Road;

1. Thence S 87° 27' 53" W along the north right of way line of said Venice Road, a distance of 56.93 feet to a point;
2. Thence continuing along the north right of way line of said Venice Road along a curve to the right, having a radius of 108.15 feet, a delta angle of 11° 09' 46", a chord distance of 21.04, a tangent of 10.57 feet, a distance of 21.07 feet to a point;
3. Thence N 82° 50' 45" W continuing along the north right of way line of said Venice Road, a distance of 58.35 feet to a point and being the True Place of Beginning for the easement herein described;
4. Thence N 82° 50' 45" W continuing along the north right of way line of said Venice Road, a distance of 74.13 feet to a point;
5. Thence N 05° 32' 16" W a distance of 33.83 feet to a point;
6. Thence N 08° 22' 26" E a distance of 68.77 feet to a point;
7. Thence N 82° 45' 16" W a distance of 24.66 feet to a point;
8. Thence N 07° 00' 57" E a distance of 20.04 feet to a point;
9. Thence S 82° 46' 55" E a distance of 19.72 feet to a point;
10. Thence N 06° 54' 24" E a distance of 10.37 feet to a point;
11. Thence S 82° 10' 42" E a distance of 26.00 feet to a point;
12. Thence S 33° 17' 27" E a distance of 34.29 feet to a point;



July 6, 2023

CITY OF SANDUSKY
PPN 60-00568.000 TEMPORARY EASEMENT 1
TOFT DAIRY CO.

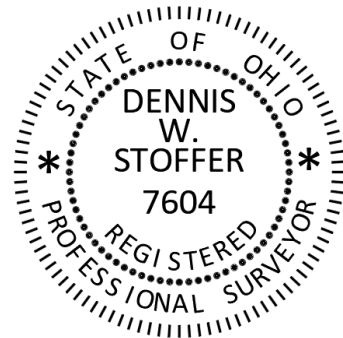
13. Thence S 06° 19' 00" W a distance of 51.48 feet to a point;
14. Thence S 23° 15' 35" E a distance of 30.54 feet to a point;
15. Thence S 82° 49' 45" E a distance of 20.75 feet to a point;
16. Thence S 07° 10' 52" W a distance of 28.00 feet to the True Place of Beginning, and containing 0.166 acres of land more or less.

This easement description and basis of bearing are based on a survey as provided by Contractors Design Engineering, LTD. to Environmental Design Group.

The above described easement lies within Erie County Auditor Parcel Number 60-00568.000

A handwritten signature in blue ink that reads "Dennis W. Stoffer".

Dennis W. Stoffer, P.S. 7604



TEMPORARY EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS: That, **Toft Dairy, Inc.**, herein referred to as the Grantor, whose mailing address is 3717 Venice Road, Sandusky, Ohio 44870, for and in consideration of the sum of one dollar(s) (\$1.00) and other good and valuable consideration paid by **the City of Sandusky**, herein referred to as the Grantee, whose tax mailing address is 240 Columbus Avenue, Sandusky, Ohio 44870 the receipt and sufficiency of which is hereby acknowledged, does hereby **GRANT, BARGAIN, SELL, CONVEY, AND RELEASE** to the Grantee, its successors and assigns, a Temporary Easement to have access to construct and lay the Sandusky Bay Pathway until the completion of construction for the area in Exhibit A, including the right of ingress to and egress from and over said premises (real estate) situated in the County of Erie and State of Ohio, and described as:

SEE ATTACHED "LEGAL DESCRIPTION", INCORPORATED HERETO.

SEE ATTACHED EXHIBIT "A", INCORPORATED HERETO FOR ILLUSTRATION PURPOSES ONLY.

(all bearings stated above are assumed for the purpose of this description)

The Grantor claims title to the above described properties by virtue of an instrument recorded in Vol. 517 Page 985, Erie County Recorder's Office.

The consideration recited herein shall constitute full and final payment for said Easement and all damages sustained and/or claimed by the Grantor, its executors, administrators, successors, and assigns, including but not limited to all damages to the remainder of the Grantor's real estate, that arise from or by reason of inspection or other proper and allowed acts as stated above, said damages include but are not limited to those known or unknown, those legal, equitable or otherwise and those direct, incidental or consequential.

TO HAVE AND TO HOLD said Easement, together with all rights and privileges belonging thereto unto the Grantee and its successors and assigns until the completion of the construction. This Easement together with all agreements, covenants, and other provisions recited herein, shall constitute a covenant running with the land for the benefit and use of the Grantee, its successors and assigns until the completion of construction.

The Grantor and signatories hereto, hereby covenant that it is the true and lawful Owner of the above described real estate and has full power and authority to convey the same; that the

same is free and clear from all liens and encumbrances whatsoever and that the Grantor will warrant and defend the title to the said easement against all lawful claims.

IN TESTIMONY WHEREOF, _____, the Grantor, has executed this Temporary Easement this _____ day of _____, 2023.

STATE OF OHIO }
 }
COUNTY OF ERIE }

SS:

Before me a Notary Public in and for said County, personally appeared the above named, proper signatory for the Grantor, who acknowledged he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2023.

Notary Public

THIS INSTRUMENT PREPARED BY:

Brendan L. Heil
City of Sandusky Law Director
240 Columbus Avenue
(419) 627-5852



July 6, 2023

CITY OF SANDUSKY
PPN 60-00568.000 TEMPORARY EASEMENT 2
TOFT DAIRY CO.

Situated in the State of Ohio, County of Erie, and the City of Sandusky, and is part of land now or formerly owned by Toft Dairy Co. (PPN 60-00568.000) by deed recorded in Document Number 202001927 of the Erie County Records and being more fully described as follows:

Commencing at the intersection of the northeast corner of said Toft Dairy Co. parcel and the west right of way line of Edgewater Avenue;

1. Thence N 82° 18' 20" W along the north line of said Toft Dairy Co. parcel, a distance of 12.16 feet to the True Place of Beginning for the easement herein described;
2. Thence S 01° 39' 49" E a distance of 524.09 feet to a point;
3. Thence S 13° 20' 11" W a distance of 81.54 feet to a point;
4. Thence S 50° 50' 31" W a distance of 27.60 feet to a point;
5. Thence N 13° 20' 11" E a distance of 93.25 feet to a point;
6. Thence N 01° 39' 49" W a distance of 332.29 feet to a point;
7. Thence S 88° 20' 11" W a distance of 5.00 feet to a point;
8. Thence N 01° 39' 49" W a distance of 192.96 feet to a point on the north line of said Toft Dairy Co. parcel;
9. Thence S 82° 18' 20" E along the north line of said Toft Dairy Co., a distance of 15.20 feet to the True Place of Beginning, and containing 0.163 acres of land more or less.

This easement description and basis of bearing are based on a survey as provided by Contractors Design Engineering, LTD. to Environmental Design Group.



July 6, 2023

CITY OF SANDUSKY
PPN 60-00568.000 TEMPORARY EASEMENT 2
TOFT DAIRY CO.

The above described easement lies within Erie County Auditor Parcel Number 60-00568.000

A handwritten signature in blue ink that reads "Dennis W. Stoffer".

Dennis W. Stoffer, P.S. 7604

