

ORDINANCE NO. 24-069

AN ORDINANCE APPROPRIATING PROPERTY INTEREST DESCRIBED AS PARCEL 54-WD, 54-T & 52-T AND NOW OWNED BY VTANIUM INC. FOR THE PURPOSE OF MAKING OR REPAIRING ROADS WHICH ARE OPEN TO THE PUBLIC WITHOUT CHARGE; AUTHORIZING THE APPROPRIATION OF FUNDS FOR DEPOSIT WITH THE CLERK OF COURTS; AUTHORIZING THE CITY LAW DIRECTOR AND/OR HIS DESIGNEE TO FILE A COMPLAINT FOR APPROPRIATION IN THE COURT OF COMMON PLEAS, ERIE COUNTY, OHIO; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City, in cooperation with the Ohio Department of Transportation (ODOT), is undertaking the widening and changing the grade of Cleveland Road in the City described as ERI-6-9.07, PID 114056, Cleveland Road Safety Improvement Project (the Project), and it is necessary for the City, on behalf of ODOT, to acquire certain property necessary to provide right-of-way access for the project; and

WHEREAS, the proposed Cleveland Road Safety Improvement Project involves improvements to Cleveland Road (S.R. 6), primarily between Sycamore Line and Remington Avenue, including signal improvements, sidewalks, extending turn lanes and includes construction, environmental, surveying, geotechnical, acquisition, and inspection as well; and

WHEREAS, in connection with the Project, it is necessary for the City to acquire the property described as Parcels 54-WD, 54-T and 52-T, (Parcel Nos. 57-03457.000 and 57-04107.000 located on Cleveland Road) and further described on Exhibits "A-1", "A-2" and "A-3, attached hereto (the "Property"); and

WHEREAS, the City delivered a Notice of Intent to Acquire and Good Faith Offer dated September 18, 2023, and May 23, 2023, copies of which are on file with the Director of Public Works (the "Notice and Offer"), declaring the City's intent to acquire the Property to the owner of such Property (the "Owner"); and

WHEREAS, the Notice and Offer satisfies the City's requirements pursuant to Sections 163.04 and 163.041 of the Ohio Revised Code to provide written notice of the City's intent to acquire the Property and to provide the Owner with a written good faith offer to purchase the Property at an appraised fair market value at least 30 days prior to filing a complaint for appropriation; and

WHEREAS, following the delivery of the Notice and Offer, the City and the Owner were unable to agree on the terms of a conveyance of the Property, as required by Ohio Revised Code, Section 163.04; and

WHEREAS, the Project is necessary for (a) making or repairing roads which shall be open to the public in accordance with Section 163.06 of the Ohio Revised Code and (b) the opening, widening, straightening, changing the grade of and extension of Cleveland Road in accordance with Section 719.01(A) of the Ohio Revised Code; and

WHEREAS, this City Commission has determined to authorize the City to proceed with the appropriation of the Property pursuant to Chapter 163 of the

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Ohio Revised Code and Section 719.05 of the Ohio Revised Code; and

WHEREAS, pursuant to Section 163.06 of the Ohio Revised Code, the City may deposit with the court at the time of filing the complaint to appropriate the value of the property appropriated together with the damages, if any, to the residue, as determined by the City, and stated in the Notice and Offer and thereupon take possession of and enter upon the Property appropriated; and

WHEREAS, the amount to be deposited with the Court is \$10,085.00 and will initially be paid by the City and then reimbursed through the Ohio Department of Transportation (ODOT) with Highway Safety Improvement Program (HSIP) funds in the amount of \$9,580.75 (95%) and the City's portion in the amount of \$504.25 (5%) will be paid with Major Infrastructure Street Funds; 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 appropriate documents to be filed with the Court and provide the necessary documentation to ODOT in order to move forward with bidding the project; 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 finds that the City and the Owner of the Property have been unable to agree on the terms of a conveyance of the Property necessary for the Cleveland Road Safety Improvement Project.

Section 2. This City Commission determines it is necessary to appropriate the Property for the purposes of (a) making or repairing roads which shall be open to the public in accordance with Section 163.06 of the Ohio Revised Code and (b) the opening, widening, straightening, changing the grade of and extension of Cleveland Road in accordance with Section 719.01(A) of the Ohio Revised Code and hereby directs the appropriation of the Property to proceed in accordance with Chapters 163 and 719 of the Ohio Revised Code.

Section 3. The City Law Director and/or his designee is hereby directed to file a complaint for appropriation in the Erie County Court of Common Pleas in accordance with the procedures set forth in Chapters 163 and 719 of the Ohio Revised Code.

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Section 4. The City Finance Director is authorized to deposit the value of the Property, as determined in the Notice and Offer, in the amount of Ten Thousand Eighty-Five and 00/100 Dollars (\$10,085.00) with the Court at the time the appropriation complaint is filed to permit the City to immediately obtain possession the Property in furtherance of the Project.

Section 5. 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 6. 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 7. 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: March 25, 2024

Exhibit "A-1"

LPA RX 851 WD

JSC
Ver. Date 08/30/2023

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PID 114056

**PARCEL 54-WD
ERI-06-09.07**

**ALL RIGHT, TITLE AND INTEREST IN FEE SIMPLE
IN THE FOLLOWING DESCRIBED PROPERTY
WITHOUT LIMITATION OF EXISTING ACCESS RIGHTS
IN THE NAME AND FOR THE USE OF THE
"CITY OF SANDUSKY, OHIO", ERIE COUNTY, OHIO**

Grantor/Owner, for himself and his heirs, executors, administrators, successors and assigns, reserves all existing rights of ingress and egress to and from any residual area (as used herein, the expression "Grantor/Owner" includes the plural, and words in the masculine include the feminine or neuter).

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Erie, City of Sandusky, being located in Outlot 26 of Darling's Survey of Outlots East of Sycamore Line as depicted in Plat Book 1, Page 59, and being part of that **0.255 acre tract** described in a deed to **Vtanium, Inc.**, of record in **Record Number 202306085**, all records referenced herein are on file at the Office of the Recorder for Erie County, Ohio, being a parcel on the right side of the centerline of right-of-way for U.S. Route 6 (AKA Cleveland Avenue; R/W width varies), as delineated on the centerline plat for ERI-06-09.07, said parcel being more particularly bounded and described as follows:

Commencing for reference at the intersection of the centerline of right-of-way for U.S. Route 6 and the centerline of right-of-way for Cedar Point Drive, (reference a monument box found bearing South 16 degrees 30 minutes 20 seconds West at a distance of 1.24 feet), said point being at U.S. Route 6 centerline of right-of-way station 155+21.83;

Thence along the arc of a non-tangent curve to the right, along the centerline of right-of-way for U.S. Route 6, said curve having a radius of **3,819.77 feet**, a central angle of **00 degrees 21 minutes 21 seconds**, and an arc length of **23.72 feet** to a point, said curve being subtended by a long chord having a bearing of **South 73 degrees 29 minutes 09 seconds East** and a length of **23.72 feet**, said point being at U.S. Route 6 centerline of right-of-way station 155+45.55;

Thence **South 16 degrees 41 minutes 31 seconds West**, a distance of **40.00 feet** to an iron pin set on the existing south right-of-way line for U.S. Route 6, being on the south line of that right-of-way easement described as Parcel 20 appropriated by County of Erie, of record in Probate Case Number 21395, said MAG nail being at the northeast corner of said 0.255 acre tract, being at the

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northwest corner of that 35.6128 acre tract described in a deed to Robert G. Schoen, of record in Record Number 200013679, said iron pin being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 155+45.55, and said iron pin being the **TRUE POINT OF BEGINNING** for this description;

Thence **South 38 degrees 51 minutes 26 seconds West**, along the east line of said 0.255 acre tract and along the west line of said Robert G. Schoen tract, a distance of **41.77 feet** to an iron pin set, said iron pin being 78.65 feet right of U.S. Route 6 centerline of right-of-way station 155+29.46;

Thence through said 0.255 acre tract along the following four (4) described courses:

1. **North 86 degrees 07 minutes 22 seconds West**, a distance of **15.77 feet** to an iron pin set, said iron pin being 82.05 feet right of U.S. Route 6 centerline of right-of-way station 155+13.73;
2. **North 69 degrees 16 minutes 06 seconds West**, a distance of **25.50 feet** to an iron pin set, said iron pin being 79.96 feet right of U.S. Route 6 centerline of right-of-way station 154+87.76;
3. **North 52 degrees 24 minutes 51 seconds West**, a distance of **25.50 feet** to an iron pin set, said iron pin being 70.43 feet right of U.S. Route 6 centerline of right-of-way station 154+63.64;
4. **North 43 degrees 59 minutes 13 seconds West**, a distance of **33.59 feet** to an MAG nail set on the west line of said 0.255 acres, being on the east line of that 0.612 acre tract described in a deed to Yang Properties, LLC, of record in Record Number 201310240, said MAG nail being 53.25 feet right of U.S. Route 6 centerline of right-of-way station 154+34.30;

Thence **North 09 degrees 56 minutes 26 seconds East**, along the west line of said 0.255 acre tract and along the east line of said Yang Properties, LLC tract, a distance of **13.30 feet** to a MAG nail set on the existing south right-of-way line for said U.S. Route 6, being on the south line of said Parcel 20, being at the northwest corner of said 0.255 acre tract, being at the northeast corner of said Yang Properties, LLC tract, said MAG nail being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 154+33.11;

Thence along the arc of a non-tangent curve to the right, along the existing south right-of-way line for said U.S. Route 6, along the south line of said Parcel 20 and along the north line of said 0.255 acre tract, said curve having a radius of **3,779.77 feet**, a central angle of **01 degree 41 minutes 12 seconds**, and an arc length of **111.26 feet** to the **TRUE POINT OF BEGINNING** for this

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description, said curve being subtended by a long chord having a bearing of **South 74 degrees 09 minutes 04 seconds East** and a length of **111.26 feet**.

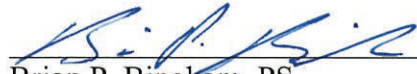
The above described right-of-way parcel contains a total area of **0.0782 acres** (0.000 acres located within present road occupied), all of which is located within Erie County Auditor's parcel number 57-03457.000.

The bearings described herein are based on Grid North, referenced to the Ohio State Plane Coordinate System (North Zone) and the North American Datum of 1983 (2011 Adjustment), as established utilizing a GPS survey and an NGS OPUS solution.

Iron pins referenced as set are 5/8 inch diameter by 30 inch long rebar with caps inscribed "ASI PS 8438".

The above described right-of-way parcel was prepared under the direct supervision of Brian P. Bingham, Registered Professional Surveyor No. 8438 on November 21, 2022, is based on an actual survey performed by American Structurepoint, Inc., and is true and correct to the best of my knowledge and belief.

American Structurepoint, Inc.



Brian P. Bingham, PS
Registered Professional Surveyor No. 8438



8/30/2023
Date

APPROVED as per Erie County Requirements
And Sections 4733-37 thru 4733-37-07 of the Ohio
Administrative Code only. No Field Verifications
for Accuracy made.

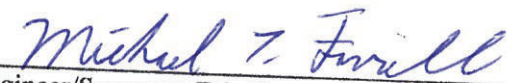

Engineer/Surveyor: Erie County Engineer's
Date: 9-11-2023

Exhibit "A-2"

LPA RX 887 T

gsc
Ver. Date 08/30/2023

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PID 114056

**PARCEL 54-T
ERI-06-09.07**

**TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
COMPLETE GRADING
FOR 12 MONTHS FROM DATE OF ENTRY BY THE
"THE CITY OF SANDUSKY, OHIO", ERIE COUNTY, OHIO**

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Erie, City of Sandusky, being located in Outlot 26 of Darling's Survey of Outlots East of Sycamore Line as depicted in Plat Book 1, Page 59, and being part of that **0.255 acre tract** described in a deed to **Vtanium, Inc.**, of record in **Record Number 202306085**, all records referenced herein are on file at the Office of the Recorder for Erie County, Ohio, being a parcel on the right side of the centerline of right-of-way for U.S. Route 6 (AKA Cleveland Avenue; R/W width varies), as delineated on the centerline plat for ERI-06-09.07, said parcel being more particularly bounded and described as follows:

Commencing for reference at an iron pin set on the existing south right-of-way line for U.S. Route 6, being on the south line of that right-of-way easement described as Parcel 20 appropriated by County of Erie, of record in Probate Case Number 21395, said MAG nail being at the northeast corner of said 0.255 acre tract, being at the northwest corner of that 35.6128 acre tract described in a deed to Robert G. Schoen, of record in Record Number 200013679, said iron pin being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 155+45.55;

Thence **South 38 degrees 51 minutes 26 seconds West**, along the east line of said 0.255 acre tract and along the west line of said Robert G. Schoen tract, a distance of **41.77 feet** to an iron pin set at the **TRUE POINT OF BEGINNING** for this description, said iron pin being 78.65 feet right of U.S. Route 6 centerline of right-of-way station 155+29.46;

Thence **South 38 degrees 51 minutes 26 seconds West**, continuing along the east line of said 0.255 acre tract and continuing along the west line of said Robert G. Schoen tract, a distance of **26.62 feet** to a point, said point being 103.25 feet right of U.S. Route 6 centerline of right-of-way station 155+19.03;

Thence **South 82 degrees 45 minutes 10 seconds West**, through said 0.255 acre tract, a distance of **4.74 feet** to a point, said point being 105.14 feet right of U.S. Route 6 centerline of construction station 155+14.56;

Thence **North 43 degrees 59 minutes 13 seconds West**, continuing through said 0.255 acre tract, a distance of **90.40 feet** to a point on the west line of said 0.255 acre tract, being on the east line of that 0.612 acre tract described in a deed to Yang Properties, LLC, of record in Record Number 201310240, said point being 59.41 feet right of U.S. Route 6 centerline of right-of-way station 154+34.86;

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Thence **North 09 degrees 56 minutes 26 seconds East**, along the west line of said 0.255 acre tract and along the east line of said Yang Properties, LLC tract a distance of **6.19 feet** to a MAG nail set, said MAG nail being 53.25 feet right of U.S. Route 6 centerline of right-of-way station 154+34.30;

Thence through said 0.255 acre tract and along a proposed right-of-way parcel along the following four (4) described courses:

1. **South 43 degrees 59 minutes 13 seconds East**, a distance of **33.59 feet** to an iron pin set, said iron pin being 70.43 feet right of U.S. Route 6 centerline of right-of-way station 154+63.64;
2. **South 52 degrees 24 minutes 51 seconds East**, a distance of **25.50 feet** to an iron pin set, said iron pin being 79.96 feet right of U.S. Route 6 centerline of right-of-way station 154+87.76;
3. **South 69 degrees 16 minutes 06 seconds East**, a distance of **25.50 feet** to an iron pin set, said iron pin being 82.05 feet right of U.S. Route 6 centerline of right-of-way station 155+13.73;
4. **South 86 degrees 07 minutes 22 seconds East**, a distance of **15.77 feet** to the **TRUE POINT OF BEGINNING** for this description.

The above described temporary easement contains a total area of **0.0230 acres**, all of which is located within Erie County Auditor's parcel number 57-03457.000.

The bearings described herein are based on Grid North, referenced to the Ohio State Plane Coordinate System (North Zone) and the North American Datum of 1983 (2011 Adjustment), as established utilizing a GPS survey and an NGS OPUS solution.

The above described temporary easement was prepared under the direct supervision of Brian P. Bingham, Registered Professional Surveyor No. 8438 on November 21, 2022, is based on an actual survey performed by American Structurepoint, Inc., and is true and correct to the best of my knowledge and belief.

American Structurepoint, Inc.



Brian P. Bingham, PS
Registered Professional Surveyor No. 8438



Date

APPROVED as per Erie County Requirements
And Sections 4733-37 thru 4733-37-07 of the Ohio
Administrative Code only. No Field Verifications
for Accuracy made.


Engineer/Surveyor: Erie County Engineer's

Date: 9-11-2023

Exhibit "A-3"

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Ver. *JSA* Date 10/25/2023

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PID 114056

**PARCEL 52-T
ERI-06-09.07**

**TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
COMPLETE GRADING AND CONSTRUCT A DRIVE
FOR 12 MONTHS FROM DATE OF ENTRY BY THE
"THE CITY OF SANDUSKY, OHIO", ERIE COUNTY, OHIO**

[Surveyor's description of the premises follows]

Situated in the State of Ohio, County of Erie, City of Sandusky, being located in Outlot 26 of Darling's Survey of Outlots East of Sycamore Line as depicted in Plat Book 1, Page 59, and being part of that **0.248 acre tract** described in deeds to **Vtanium, Inc.**, of record in **Record Numbers 202110055 and 202200562**, all records referenced herein are on file at the Office of the Recorder for Erie County, Ohio, being a parcel on the right side of the centerline of right-of-way for U.S. Route 6 (Cleveland Road, R/W width varies), as delineated on the centerline plat for ERI-06-09.07, said parcel being more particularly bounded and described as follows:

BEGINNING at a point on the existing south right-of-way line for U.S. Route 6, said point being the northeast corner of said 0.248 acre tract, being the northwest corner of that 0.612 acre tract described in a deed to Yang Properties, LLC, of record in Record Number 201310240, said point being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 153+11.52;

Thence **South 09 degrees 56 minutes 26 seconds West**, along the east line of said 0.248 acre tract and along the west line of said Yang Properties tract, a distance of **10.02 feet** to a point, said point being 50.00 feet right of U.S. Route 6 centerline of right-of-way station 153+12.09;

Thence **North 77 degrees 16 minutes 32 seconds West**, through said 0.248 acre tract, a distance of **80.11 feet** to a point on the west line of said 0.248 acre tract, said point being 49.80 feet right of U.S. Route 6 centerline of right-of-way station 152+30.92;

Thence **North 09 degrees 56 minutes 26 seconds East**, along the west line of said 0.248 acre tract, a distance of **9.81 feet** to a point on the existing south right-of-way line for said U.S. Route 6, being on the north line of said 0.248 acre tract, said point being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 152+30.57;

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Thence along the arc of a non-tangent curve to the right, along the existing south right-of-way line for said U.S. Route 6 and along the north line of said 0.248 acre tract, said curve having a radius of **3,779.77 feet**, a central angle of **01 degrees 12 minutes 51 seconds**, and an arc length of **80.10 feet** to the **POINT OF BEGINNING** for this description, said curve being subtended by a long chord having a bearing of **South 77 degrees 25 minutes 32 seconds East** and a length of **80.10 feet**;

The above described temporary easement contains a total area of **0.0184 acres**, all of which is located within Erie County Auditor's parcel number 57-04107.000.

The bearings described herein are based on Grid North, referenced to the Ohio State Plane Coordinate System (North Zone) and the North American Datum of 1983 (2011 Adjustment), as established utilizing a GPS survey and an NGS OPUS solution.

The above described temporary easement was prepared under the direct supervision of Brian P. Bingham, Registered Professional Surveyor No. 8438 on November 21, 2022, is based on an actual survey performed by American Structurepoint, Inc., and is true and correct to the best of my knowledge and belief.

American Structurepoint, Inc.



Brian P. Bingham, PS

Registered Professional Surveyor No. 8438



10/26/2023
Date