

## ORDINANCE NO. 24-070

**AN ORDINANCE APPROPRIATING PROPERTY INTEREST DESCRIBED AS PARCEL 53-WD & 53-T AND NOW OWNED BY YANG PROPERTIES, LLC, 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 Parcel 53-WD and 53-T, (Parcel No. 57-01477.000 located at 1934 Cleveland Road) and further described on Exhibits "A-1" and "A-2", attached hereto (the "Property"); and

**WHEREAS**, the City delivered a Notice of Intent to Acquire and Good Faith Offer dated August 9, 2023, a copy of which is 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 \$38,180.00 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 \$36,271.00 (95%) and the City's portion in the amount of \$1,909.00 (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 Thirty-Eight Thousand, One Hundred Eighty and 00/100 Dollars (\$38,180.00) 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.



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RICHARD R. BRADY  
PRESIDENT OF THE CITY COMMISSION



ATTEST:

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CATHLEEN A. MYERS  
CLERK OF THE CITY COMMISSION

Passed: March 25, 2024

**Exhibit "A-1"**

LPA RX 851 WD

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Ver. Date 11/21/2022

PID 114056

**PARCEL 53-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).

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**[Surveyor's description of the premises follows]**

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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 **0.612 acre tract** described in a deed to **Yang Properties, LLC**, of record in **Record Number 201310240**, 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 left, along the existing centerline of right-of-way for U.S. Route 6, said curve having a radius of **3,819.77 feet**, a central angle of **01 degree 19 minutes 51 seconds**, and an arc length of **88.72 feet** to a point, said curve being subtended by a long chord having a bearing of **North 74 degrees 19 minutes 45 seconds West** and a length of **88.72 feet**, said point being at U.S. Route 6 centerline of right-of-way station 154+33.11;

Thence **South 15 degrees 00 minutes 20 seconds West**, a distance of **40.00 feet** to a MAG nail 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 the northeast corner of said 0.612 acre tract, being the northwest corner of that 0.255 acre tract described in a deed to Sunny Patel and Hinesh Patel, of record in Record Number 202114668, said MAG nail being 40.00 feet right of U.S. Route 6



*Michael T. Farrell*

Engineer/Surveyor: Erie County Engineer's

Date: 9-11-2023

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centerline of right-of-way station 154+33.11, and said MAG nail being the **TRUE POINT OF BEGINNING** for this description;

Thence **South 09 degrees 56 minutes 26 seconds West**, along the east line of said 0.612 acre tract and along the west line of said Patel tract, a distance of **13.30 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 **North 49 degrees 28 minutes 05 seconds West**, through said 0.612 acre tract, a distance of **20.35 feet** to a MAG nail set, said MAG nail being 44.44 feet right of U.S. Route 6 centerline of right-of-way station 154+15.72;

Thence **North 62 degrees 34 minutes 39 seconds West**, continuing through said 0.612 acre tract, a distance of **20.00 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, and being on the north line of said 0.612 acre tract, said MAG nail being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 153+96.00;

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 0.612 acre tract, said curve having a radius of **3,779.77 feet**, a central angle of **00 degrees 33 minutes 24 seconds**, and an arc length of **36.72 feet** to the **TRUE POINT OF BEGINNING** for this description, said curve being subtended by a long chord having a bearing of **South 75 degrees 16 minutes 22 seconds East** and a length of **36.72 feet**.

The above described right-of-way parcel contains a total area of **0.0045 acres** (0.000 acres located within present road occupied), all of which is located within Erie County Auditor's parcel number 57-01477.000.

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 "ASI PS 8438" cap.

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*

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



8/30/2023

Date

**Exhibit "A-2"**

LPA RX 887 T

Ver. Date 11/21/2022

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PID 114056

**PARCEL 53-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 **0.612 acre tract** described in a deed to **Yang Properties, LLC**, of record in **Record Number 201310240**, 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:

**BEGINNING** at a point on the existing south right-of-way line for U.S. Route 6, said point being on the northwest corner of said 0.612 acre tract, being on the northeast corner of that 0.248 acre tract described in deeds to Vtanium, Inc., of record in Record Numbers 202110055 and 202200562, said point being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 153+11.52;

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 0.612 acre tract, said curve having a radius of **3,779.77 feet**, a central angle of **01 degree 16 minutes 02 seconds**, and an arc length of **83.60 feet** to a MAG nail set, said curve being subtended by a long chord having a bearing of **South 76 degrees 11 minutes 05 seconds East** and a length of **83.60 feet**, said MAG nail being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 153+96.00;

Thence **South 62 degrees 34 minutes 39 seconds East**, through said 0.612 acre tract and along a proposed right-of-way parcel, a distance of **20.00 feet** to a MAG nail set, said MAG nail being 44.44 feet right of U.S. Route 6 centerline of right-of-way station 154+15.72;



Michael T. Farrell  
Engineer/Surveyor: Erie County Engineer's  
Date: 9-11-2023

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Thence **South 49 degrees 28 minutes 05 seconds East**, continuing through said 0.612 acre tract and continuing along a proposed right-of-way parcel, a distance of **20.35 feet** to a MAG nail set on the east line of said 0.612 acre tract, being on the west line of that 0.255 acre tract described in a deed to Sunny Patel and Hinesh Patel, of record in Record Number 202114668, said MAG nail being 53.25 feet right of U.S. Route 6 centerline of right-of-way station 154+34.30;

Thence **South 09 degrees 56 minutes 26 seconds West**, along the east line of said 0.612 acre tract and along the west line of said Patel tract, a distance of **6.19 feet** to a point, said point being 59.41 feet right of U.S. Route 6 centerline of right-of-way station 154+34.86;

Thence **North 43 degrees 59 minutes 13 seconds West**, through said 0.612 acre tract, a distance of **18.22 feet** to a point, said point being 50.00 feet right of U.S. Route 6 centerline of right-of-way station 154+19.03;

Thence **North 76 degrees 00 minutes 28 seconds West**, continuing through said 0.612 acre tract, a distance of **105.54 feet** to a point on the west line of said 0.612 acre tract, being on the east line of said Vtanium, Inc. tract, said point being 50.00 feet right of U.S. Route 6 centerline of right-of-way station 153+12.09;

Thence **North 09 degrees 56 minutes 26 seconds East**, along the west line of said 0.612 acre tract and along the east line of said Vtanium, Inc. tract, a distance of **10.02 feet** to the **TRUE POINT OF BEGINNING** for this description.

The above described temporary easement contains a total area of **0.0248 acres**, all of which is located within Erie County Auditor's parcel number 57-01477.000.

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



8/30/2023  
Date