

## ORDINANCE NO. 24-072

**AN ORDINANCE APPROPRIATING PROPERTY INTEREST DESCRIBED AS PARCEL 105-WD AND NOW OWNED BY LLLL INVESTMENTS LTD 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 105-WD, (Parcel No. 57-00871.000 at 2106 Cleveland Road) and further described on Exhibit "A-1", attached hereto (the "Property"); and

**WHEREAS**, the City delivered a Notice of Intent to Acquire and Good Faith Offer dated May 26, 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 \$1,946.00 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 \$1,848.70 (95%) and the City's portion in the amount of \$97.30 (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 One Thousand Nine Hundred Forty-Six and 00/100 Dollars (\$1,946.00) 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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Rev. 06/09

Ver. Date 11/22/2022

PID 114056

**PARCEL 105-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 Lot 1 of John E. Camps' Subdivision of Lot No. 7 West of Railroad and 19 Acres east part of Lot No. 8 of Darling's Survey of Outlots East of Sycamore Line, as recorded in Plat Book 1, Page 16, and being part of that **0.0814 acre tract** described in a deed to **LLLL Investments, Ltd**, of record in **Record Number 200101956**, 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), being on the left side of the centerline of right-of-way for Remington Avenue (33' R/W width), both 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 in a monument box assembly at the intersection of the centerline of right-of-way for U.S Route 6 and the centerline of right-of-way for Remington Avenue, said iron pin being at U.S. Route 6 centerline of right-of-way station 183+03.89, and being at Remington Avenue centerline of right-of-way station 514+05.24;

Thence along a curve to the right, along the centerline of right-of-way for said U.S. Route 6, said curve having a radius of **11,459.20 feet**, a central angle of **00 degrees 07 minutes 06 seconds**, and an arc length of **23.69 feet** to a point, said point being at U.S. Route 6 centerline of right-of-way station 182+80.20, said curve being subtended by a long chord having a bearing of **North 58 degrees 53 minutes 29 seconds West** and a length of **23.69 feet**;

Thence **South 31 degrees 10 minutes 04 seconds West**, a distance of **40.00 feet** to a MAG nail set at the intersection of the existing south right-of-way line for U.S. Route 6 and the existing west right-of-way line for Remington Avenue, being at the northeast corner of said 0.0814 acre tract, and being on the south line of that 0.129 acre right-of-way easement described as Parcel 29 in a deed to County of Erie, of record in Deed Book 152, Page 370, said MAG nail being the **TRUE POINT OF**



*Michael T. Farrell*

Engineer/Surveyor: Erie County Engineer's

Date: 9-11-2023

**EXHIBIT A**

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**BEGINNING** for this description, and said MAG nail being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 182+80.20 and 16.50 feet left of Remington Avenue centerline of right-of-way station 513+61.76;

Thence **South 41 degrees 00 minutes 48 seconds West**, along the existing west right-of-way line for said Remington Avenue and along the east line of said 0.0814 acre tract, a distance of **13.75 feet** to an iron pin set, said iron pin being 16.50 feet left of Remington Avenue centerline of right-of-way station 513+48.00;

Thence **North 48 degrees 59 minutes 12 seconds West**, through said 0.0814 acre tract, a distance of **8.08 feet** to an iron pin set, said iron pin being 24.58 feet left of Remington Avenue centerline of right-of-way station 513+48.00;

Thence **North 05 degrees 16 minutes 44 seconds West**, through said 0.0814 acre tract, a distance of **15.15 feet** to an iron pin set on the existing south right-of-way line for said U.S. Route 6, being on the north line of said 0.0814 acre tract, and being on the south line of said 0.129 acre right-of-way easement, said iron pin being 40.00 feet right of U.S. Route 6 centerline of right-of-way station 182+60.95;

Thence along the arc of a non-tangent curve to the left, along the existing south right-of-way line for said U.S. Route 6, along the south line of said 0.129 acre right-of-way easement and along the north line of said 0.0814 acre tract, said curve having a radius of **11,499.21 feet**, a central angle of **00 degrees 05 minutes 46 seconds**, and an arc length of **19.32 feet** to the **TRUE POINT OF BEGINNING** for this description, said curve being subtended by a long chord having a bearing of **South 58 degrees 47 minutes 02 seconds East** and a length of **19.32 feet**.

The above described right-of-way parcel contains a total area of **0.0040 acres** (0.000 acres located within present road occupied), all of which is located within Erie County Auditor's parcel number 57-00871.000.

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 22, 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.

*B. P. Bingham*

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



8/30/2023  
Date