

Ordinance No. 545-2019

Council Members: Zone, Cleveland, Brancatelli and Kelley (by departmental request)

An emergency ordinance authorizing the Director of Port Control to execute a deed of easement granting to Cargill, Incorporated and its successors and assigns, certain easement rights located above a city-owned portion of 5300 Whiskey Island Drive, and declaring that the easement rights granted are not needed for the City's public use.

WHEREAS, Cargill, Incorporated and its successors and assigns ("Cargill") has requested the Director of Port Control to convey certain aerial easement rights above a city-owned portion of 5300 Whiskey Island Drive, known as Permanent Parcel No. 003-02-008, to install a telecommunication line; and

WHEREAS, the easement rights to be granted are not needed for the City's public use; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That, notwithstanding and as an exception to the provisions of Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that an aerial utility easement interest located above the following described property is not needed for the City's public use:

Legal Description of Easement over PPN 003-02-008

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original Brooklyn Township Lot No. 50.

Starting at the southeast corner of Whiskey Island Drive Extension, 35.00 feet wide, as shown by the Dedication Plat recorded in Volume 268, Pages 11-12 of Cuyahoga County Map Records, said point also being in the easterly line of the First Parcel of land conveyed to the City of Cleveland in deed dated February 16, 1897, and recorded in Volume 659, Page 145 of Cuyahoga County Deed Records; thence South 35° 16' 58" East along the easterly line of said land so conveyed, 139.80 feet to the Principal Place of Beginning of the easement herein intended to be described;

Thence continuing South 35° 16' 58" East along the easterly line of said land so conveyed, 10.04 feet;

Thence South 59° 45' 48" West, 100.40 feet to a point in the westerly line of said land so conveyed;

Thence North 35° 16' 58" West along the westerly line of said land so conveyed, 10.04 feet;

Thence North 59° 45' 48" East 100.40 feet to the Principal Place of Beginning and containing 1003.95 square feet (0.0230 acres) of land as described on January 17, 2019, by R.M. Kole & Assoc., Corp., Professional Land Surveyors.

Section 2. That, by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to convey the above-described easement interest to Cargill subject to any conditions stated in this ordinance. The consideration to be paid for this property shall not exceed the appraised value of \$2,000, which is determined to be fair market value.

Section 3. That the aerial utility easement shall be non-exclusive, and the purpose of the easement shall be to install a telecommunication line above a city-owned portion of 5300 Whiskey Island Drive, known as Permanent Parcel No. 003-02-008.

Section 4. That the duration of the easement shall be perpetual but shall revert to the City if abandoned; that the easement shall not be assignable without the consent of the Director of Port Control; that the easement shall require that Cargill provide reasonable insurance, maintain any Cargill improvements located within the easement; pay any applicable taxes and assessments; and shall contain such other terms and conditions that the Director of Law determines to be necessary to protect and benefit the City.

Section 5. That the conveyance referenced above shall be made by official deed of easement prepared by the Director of Law and executed by the Director of Port Control on behalf of the City of Cleveland. The Directors of Port Control and Law are authorized to execute any other documents, including without limitation, contracts for right of entry, as may be necessary to affect this ordinance.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed June 3, 2019.

Effective June 5, 2019.