



## Legislation Text

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**File #:** 1546-2015, **Version:** 1

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### 1. BACKGROUND

1047 Cleveland LLC, an Ohio limited liability company (the "Developer") is engaged in the redevelopment of that tract of land known as the former Timken property. The redevelopment of this site is located at the southwest corner of Cleveland Avenue and 5th Avenue. To facilitate the redevelopment of this site the Developer has agreed to donate to the City of Columbus the right-of-way needed for the improvements proposed by the NCR - Milo Grogan (Fifth Avenue Streetscape Improvements) Project (2369 DR. E). To facilitate a relocation of a proposed private drive In exchange for this donation, the Developer has requested the City abandon as right-of-way and transfer to them that portion of existing Cleveland Avenue approximately 400 feet south of 5th Avenue. The property being transferred to the City by the Developer for use as a private drive totals 0.046 acres and the excess right-of-way to be transferred to the Developer by the City totals 0.045 acres. After investigation and plan review it has been determined the exchange of these parcels of land is in the best interest of both parties and should be authorized subject to the retention of a general utility easement for those utilities currently located within the portion of Cleveland Avenue that is being transferred.

### 2. FISCAL IMPACT

N/A

### 3. EMERGENCY DESIGNATION

Emergency action is requested to allow the construction of the proposed improvements to proceed as quickly as possible. Plans are currently being signed and construction of this improvement project is anticipated to begin this construction season.

To authorize the Director of the Department of Public Service to execute those documents, prepared by the Department of Law, Real Estate Division, needed to transfer a portion of existing Cleveland Avenue to 1047 Cleveland LLC, an Ohio limited liability company; to accept proposed right-of-way and permanent easements needed by the City of Columbus for the NCR - Milo Grogan (Fifth Avenue Streetscape Improvements) Project (2369 DR. E) project from 1047 Cleveland LLC, an Ohio limited liability company; to the extent that they may apply to these transfers to waive the competitive bidding provisions and the Land Review Commission requirements of Columbus City Codes; and to declare an emergency.

**WHEREAS**, 1047 Cleveland, LLC (the "Developer") is engaged in the redevelopment of that tract of land known as the former Timken property site; and

**WHEREAS**, the redevelopment of this site, is located at the southwest corner of Cleveland Avenue and 5th Avenue; and

**WHEREAS**, to facilitate this phase of the project the Developer has agreed to donate to the City of Columbus the right-of-way and easements needed to construct the improvements proposed by the NCR - Milo Grogan (Fifth Avenue Streetscape Improvements) Project (2369 DR. E) Improvements plan; and

**WHEREAS**, in exchange for this donation, the Developer has requested the City abandon as right-of-way and transfer to them that portion of existing Cleveland Avenue approximately 400 feet south of 5th Avenue; and

**WHEREAS**, through this exchange the City will acquire approximately 0.046 acres of additional right-of-way and

permanent easements; and

**WHEREAS**, the Developer will acquire approximately 0.045 acres of excess right-of-way from the City; and

**WHEREAS**, after investigation and review of the plans it has been determined the exchange of these parcels of land is in the best interest of both parties and should be authorized subject to the retention of a general utility easement for those utilities currently located within the portion of Grant Avenue that is being transferred to the Developer; and

**WHEREAS**, the following legislation authorizes the exchange of these parcels, abandons a portion of existing Cleveland Avenue as right-of-way, authorizes the acceptance of the new right-of-way from the Developer and waives the competitive bidding and land review commission provisions of Columbus City Code; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Public Service in that it is immediately necessary to authorize the exchange of these properties and to authorize the Director to execute those documents needed to transfer approximately 0.045 acres of Cleveland Avenue to 1047 Cleveland LLC, an Ohio limited liability company, so that construction of the NCR - Milo Grogan (Fifth Avenue Streetscape Improvements) Project (2369 DR. E) can begin as currently scheduled thereby preserving the public health, peace, property, safety and welfare; now therefore

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the Director of the Department of Public Service be and is hereby authorized to execute quit claim deeds and other incidental instruments prepared by the Department of Law, Real Estate Division, necessary to transfer the following described right-of-way to 1047 Cleveland LLC, an Ohio limited liability company; to-wit:

**0.045 ACRE**

Situated in the State of Ohio, County of Franklin, City of Columbus, in Half Section 4, Township 5, Range 22, Refugee Lands, being part of that 30.899 acre tract of land conveyed to 1047 Cleveland, LLC by deed of record in Instrument Number 201107140087803, also being part of Lot 10 of the Partition of the Robert Neil Estate by the Franklin County Court of Common Pleas as shown upon Exhibit "A" of record in Complete Record 153, Page 440, (on file with the Franklin County Clerk of Courts) said boundary of the partition in Franklin County is demonstrated in "Robert Neil's Heirs Partition Case No. 28090", of record in Plat Book 20, Page 27 and is additionally demonstrated in the "Agreement Between Property Owners For Fixing Boundaries", of record in Plat Book 13, Page 37, (all references unless otherwise stated are to the records of the Recorder's Office, Franklin County, Ohio) and more particularly bounded and described as follows:

Beginning, for reference, at a magnetic nail set at the centerline intersection of Cleveland Avenue (width varies) and Starr Avenue (50 feet wide);

Thence North 03° 46' 19" East, with the centerline of said Cleveland Avenue, a distance of 196.05 feet to a point;

Thence North 86° 14' 33" West, crossing said Cleveland Avenue and with the northerly line of that tract conveyed as Tract 4 to September Properties LLC by deed of record in Instrument Number 200704170067242, a distance of 53.00 feet to the southwesterly corner of that tract conveyed as Parcel 10-WD2 to City of Columbus, Ohio by deed of record in Instrument Number 201311150191696, in the westerly right of way line of said Cleveland Avenue;

Thence with the boundary of said Parcel 10-WD2 and with said westerly right-of-way line the following courses and distances:

North 03° 46' 19" East, a distance of 78.10 feet to a point;

North 86° 13' 41" West, a distance of 7.00 feet to a point;

North 03° 46' 19" East, a distance of 60.00 feet to a point;

South 86° 13' 41" East, a distance of 7.00 feet to a point; and

North 03° 46' 19" East, a distance of 540.00 feet to an iron pin set at the TRUE POINT OF BEGINNING for this description;

Thence crossing said 30.899 acre tract the following courses and distances:

North 86° 13' 41" West, a distance of 23.00 feet to an iron pin set;

North 03° 27' 47" East, a distance of 68.00 feet to an iron pin set; and

North 33° 27' 25" East, a distance of 44.42 feet to an iron pin set in the boundary of said Parcel 10-WD2 and said westerly right-of-way line;

Thence South 03° 02' 10" West, with the boundary of said Parcel 10-WD2 and with said westerly right-of-way line, a distance of 106.60 feet to the TRUE POINT OF BEGINNING, containing 0.045 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

The bearings shown hereon are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (NSRS2007). Control for bearings was from coordinates of Franklin County Geodetic monuments "TACKETT" and "MORLAN", having a bearing of North 08° 32' 13" West between said monuments, established by the Franklin County Engineering Department.

This description was prepared using documents of record, prior plats of survey, and observed evidence located by an actual field survey.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

Matthew A. Kirk Professional Surveyor No. 7865

**Section 2.** That the above referenced real property shall be considered excess road right-of-way and the public rights therein shall terminate upon the Director's execution and delivery of said quitclaim deed to the grantee thereof.

**Section 3.** That a general utility easement in, on, over, across and through the above described right-of-way shall be and hereby is retained by the City of Columbus for those utilities currently located within this excess right-of-way.

**Section 4.** That this Council has determined it is in the best interest of the City of Columbus to allow this right-of-way to be transferred without requiring competitive bidding and hereby waives the competitive bidding provision of Columbus City Code Chapter 329 with regards to the transfer of this right-of-way.

**Section 5.** That this Council has determined it is in the best interest of the City of Columbus to allow this right-of-way to be transferred without requiring a recommendation from Land Review Commission and hereby waives the Land Review Commission provisions of Columbus City Code, Section 328.01, with regards to the transfer of this right-of-way.

**Section 6.** That the City of Columbus hereby accepts the property more fully described below from 1047 Cleveland LLC, an Ohio limited liability company; to-wit:

0.046 ACRES (Warranty Deed)

Situated in the State of Ohio, County of Franklin, City of Columbus, in Half Section 4, Township 5, Range 22, Refugee Lands, being part of that 30.899 acre tract of land conveyed to 1047 Cleveland LLC by deed of record in Instrument Number 201107140087803, also being part of Lot 10 of the Partition of the Robert Neil Estate by the Franklin County Court of Common Pleas as shown upon Exhibit "A" of record in Complete Record 153, Page 440, (on file with the Franklin County Clerk of Courts) said boundary of the partition in Franklin County is demonstrated in "Robert Neil's Heirs Partition Case No. 28090", of record in Plat Book 20, Page 27 and is additionally demonstrated in the "Agreement Between Property Owners For Fixing Boundaries", of record in Plat Book 13, Page 37, (all references unless otherwise stated are to the records of the Recorder's Office, Franklin County, Ohio) and more particularly bounded and described as follows:

Beginning, for reference, at a magnetic nail set at the centerline intersection of Cleveland Avenue (width varies) and Starr Avenue (50 feet wide);

Thence North 03° 46' 19" East, with the centerline of said Cleveland Avenue, a distance of 196.05 feet to a point;

Thence North 86° 14' 33" West, crossing said Cleveland Avenue and with the northerly line of that tract conveyed as Tract 4 to September Properties LLC by deed of record in Instrument Number 200704170067242, a distance of 53.00 feet to

the southwesterly corner of that tract conveyed as Parcel 10-WD2 to City of Columbus, Ohio by deed of record in Instrument Number 201311150191696, in the westerly right of way line of said Cleveland Avenue;

Thence with the boundary of said Parcel 10-WD2 and with said westerly right-of-way line the following courses and distances:

North 03° 46' 19" East, a distance of 78.10 feet to a point;

North 86° 13' 41" West, a distance of 7.00 feet to a point;

North 03° 46' 19" East, a distance of 60.00 feet to a point;

South 86° 13' 41" East, a distance of 7.00 feet to a point;

North 03° 46' 19" East, a distance of 540.00 feet to a point;

North 86° 13' 41" West, a distance of 23.00 feet to a point;

North 03° 27' 47" East, a distance of 68.00 feet to a point;

North 33° 27' 25" East, a distance of 44.42 feet to a point; and

North 02° 16' 19" East, a distance of 7.47 feet to an iron pin set at the TRUE POINT OF BEGINNING for this description;

Thence crossing said 30.899 acre tract the following courses and distances:

North 87° 43' 41" West, a distance of 24.36 feet to an iron pin set;

North 02° 16' 19" East, a distance of 62.71 feet to an iron pin set; and

North 33° 27' 25" East, a distance of 47.04 feet to an iron pin set in the boundary of said Parcel 10-WD2 and said westerly right-of-way line;

Thence South 02° 16' 19" West, with the boundary of said Parcel 10-WD2 and with said westerly right-of-way line, a distance of 102.95 feet to the TRUE POINT OF BEGINNING, containing 0.046 acre of land, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

The bearings shown hereon are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (NSRS2007). Control for bearings was from coordinates of Franklin County Geodetic monuments "TACKETT" and "MORLAN", having a bearing of North 08° 32' 13" West between said monuments, established by the Franklin County Engineering Department.

This description was prepared using documents of record, prior plats of survey, and observed evidence located by an actual field survey. EVANS, MECHWART, HAMBLETON & TILTON, INC. Matthew A. Kirk Professional Surveyor No. 7865

**Section 7.** That the above described property shall be dedicated as right-of-way and shall be named Cleveland Avenue by the City of Columbus.

**Section 8.** That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor or ten days after passage if the Mayor neither approves nor vetoes the same.