

EMERGENCY

City of Cincinnati

AY

AWB

An Ordinance No. \_\_\_\_\_ - 2020

**AUTHORIZING** the City Manager to execute a *Fourth Amendment to the Warren County Water Area Contract* between the City of Cincinnati and the Board of County Commissioners of Warren County, Ohio to modify the area in the original agreement to be served by the City.

WHEREAS, the City of Cincinnati (the “City”) and the Board of County Commissioners of Warren County, Ohio (the “County”) entered into a *Warren County Water Area Contract* (as amended, the “Water Contract”) dated February 17, 1995, providing for the City to supply surplus water within certain portions of Warren County; and

WHEREAS, the City and the County entered into the *First Amendment to the Warren County Water Area Contract* on December 12, 1996, to define the Wholesale Water Area in Warren County to be the entire county; and

WHEREAS, the City and the County entered into the *Second Amendment to the Warren County Water Area Contract* on June 17, 1997, to provide for improvements including the construction of a transmission main to increase the supply of water to Warren County; and

WHEREAS, the City and the County entered into the *Third Amendment to the Warren County Water Area Contract* on February 15, 2017, to clarify the retail service boundary along Fields Ertel Road at the Cross Creek Estates residential development; and

WHEREAS, certain properties in the unincorporated area of Warren County (listed in Exhibit A hereto) (the “Properties”) do not currently have public water service and do not have convenient access to a Warren County Water main; and

WHEREAS, City’s Greater Cincinnati Water Works (GCWW) has water mains in the vicinity of the Properties and is able to provide retail water service to the Properties; and

WHEREAS, the County and Cincinnati desire to enter into a *Fourth Amendment to the Warren County Water Area Contract* in a form substantially similar to Exhibit A hereto in order to add the Properties to the “Warren County Retail Water Area” as defined in the Water Contract so that they may be served by the City under the Water Contract’s terms; and

WHEREAS, pursuant to section 6(D) of the Retail Water Service Agreement between the City and the City of Mason, the City of Mason has consented to the use of a portion of the Mason Water Utility to provide service to the Properties in the unincorporated area of Warren County; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the City Manager is hereby authorized to execute the *Fourth Amendment to the Warren County Water Area Contract* between the City of Cincinnati and the Board of County Commissioners of Warren County, Ohio in substantially the form of the attached Exhibit A hereto to modify the area in the original agreement to be served by the City.

Section 2. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the terms of the *Warren County Water Area Contract* as amended.

Section 3. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 4. of the Charter, be effective immediately. The reason for the emergency is the immediate need to execute the Amendment to the contract so that the City may begin providing water service to the properties added to City's Warren County Retail Water Area at the earliest possible time.

Passed: \_\_\_\_\_, 2020

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

**EXHIBIT A**

**FOURTH AMENDMENT  
TO THE WARREN COUNTY WATER AREA CONTRACT**

This *Fourth Amendment to the Warren County Water Area Contract* (“Fourth Amendment”) is made and entered into on the Effective Date (as defined on the signature page hereof) by and between the City of Cincinnati (“Cincinnati”), acting through its City Manager, and the Board of County Commissioners of Warren County, Ohio (“County”), acting pursuant to Chapters 307 and 6103 of the Revised Code of Ohio.

**WITNESSETH:**

WHEREAS, Cincinnati and the Board of County Commissioners of Warren County, Ohio entered into a *Warren County Water Area Contract* dated February 17, 1995 (as amended, the “Contract”), providing for Cincinnati through its Greater Cincinnati Water Works (GCWW) to supply surplus water within portions of Warren County defined in that agreement as the retail water area and wholesale water area; and

WHEREAS, the County and Cincinnati entered into the *First Amendment to the Warren County Water Area Contract* on December 12, 1996 to collaborate on the construction of a transmission main on State Route 3/U.S. Route 22, allowing Cincinnati to provide wholesale water to the Western Water Company; and

WHEREAS, the County and Cincinnati entered into the *Second Amendment to the Warren County Water Area Contract* on June 17, 1997 for improvements including the construction of a transmission main along Columbia Road and Socialville-Fosters Road and oversizing of the State Route 3/U.S. Route 22 transmission main to increase the supply of water to Warren County; and

WHEREAS, the County and Cincinnati entered into the *Third Amendment to the Warren County Water Area Contract* dated February 15, 2017 to clarify the retail service boundary along Fields Ertel Road at the Cross Creek Estates residential development; and

WHEREAS, certain properties in the unincorporated area of Warren County (listed in Exhibit A hereto) (the “Properties”) do not currently have public water service, and do not have convenient access to a Warren County Water main; and

WHEREAS, GCWW has water mains in the vicinity of the Properties and is able to provide retail water service to the Properties; and

WHEREAS, the County and Cincinnati desire to enter into this Fourth Amendment to add the Properties to the “Warren County Retail Water Area” as defined in the Contract so that they may be served by Cincinnati’s GCWW under the Contract’s terms;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and agreements contained herein, the parties hereto agree to amend and supplement the Contract as follows:

1. **Warren County Retail Water Area.** The definition of “Warren County Retail Water Area” in Section 1 (b) of the Contract shall be amended to add the parcels listed on Exhibit A and depicted in the map on Exhibit B hereto.
2. **Ratification.** All terms of the Contract not amended hereby or not inconsistent herewith shall remain in full force and effect and by this reference are incorporated herein as if fully rewritten herein, and the Agreement, as amended hereby, is hereby ratified by the parties.
3. **Counterpart execution.** This Amendment may be executed in counterparts and the parties shall have the right to transmit signature pages to each other electronically in lieu of exchanging original pages.
4. **Exhibits.** The following exhibits are hereby attached and incorporated into this Fourth Amendment:
  - a. Exhibit A – List of the Properties
  - b. Exhibit B – Map depicting the Properties

[SIGNATURE PAGES FOLLOW]

**CITY OF CINCINNATI**

IN WITNESS WHEREOF, the City of Cincinnati has caused this Amendment to be executed by its City Manager on the date stated below, pursuant to Ordinance No. \_\_\_\_\_, dated \_\_\_\_\_.

**CITY OF CINCINNATI**

By: \_\_\_\_\_  
Paula Boggs Muething, City Manager  
Date: \_\_\_\_\_, 20\_\_

**RECOMMENDED BY:**

\_\_\_\_\_  
Cathy B. Bailey, Director  
Greater Cincinnati Water Works

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Andrea Yang, Assistant City Solicitor

**CERTIFICATION OF FUNDS:**

Date: \_\_\_\_\_  
Funding: \_\_\_\_\_  
Amount: \_\_\_\_\_

\_\_\_\_\_  
Karen Alder, Finance Director

**WARREN COUNTY:**

**IN EXECUTION WHEREOF**, the Warren County Board of Commissioners has caused this Agreement to be executed by \_\_\_\_\_, its \_\_\_\_\_, on the date stated below, pursuant to Board Resolution No. \_\_\_\_\_, dated \_\_\_\_\_.

**THE BOARD OF COUNTY  
COMMISSIONERS WARREN COUNTY,  
OHIO**

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Approved as to form:

DAVID FORNSHELL,  
PROSECUTING ATTORNEY  
WARREN COUNTY, OHIO

\_\_\_\_\_  
By: Adam Nice, Assistant Prosecutor

**EXHIBIT A**  
*To Fourth Amendment to the Warren County Water Area Contract*  
**(List of the Properties)**

<b>Exhibit A</b> (Revised 10/22/2020)				
<b>Account No.</b>	<b>Parcel No.</b>	<b>Area (Acres)</b>	<b>House Number</b>	<b>Road</b>
6606334	12133000540	2.24	4570	Cox-Smith Road
6500871	12194770090	0.97	4931	Cox-Smith Road
6500439	12194770040	0.61	4943	Cox-Smith Road
6600778	12141000080	10.00	3268	US Rt 42



EXHIBIT B  
To Fourth Amendment to the Warren County Water Area Contract  
(Maps depicting the Properties)

