

EMERGENCY

City of Cincinnati

ALA

An Ordinance No. \_\_\_\_\_ - 2022

EESW

**AUTHORIZING** the City Manager to execute a *Fifth 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, the City and County entered into the *Fourth Amendment to the Warren County Water Area Contract* effective December 23, 2020 to add certain properties in the unincorporated area of Warren County to the “Warren County Retail Water Area” as defined in the Water Contract so that they could be served by City’s Greater Cincinnati Water Works (GCWW) under the Water Contract’s terms; and

WHEREAS, certain additional properties in the unincorporated area of Warren County (listed in Exhibit A of Attachment 1 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 GCWW has water mains in the vicinity of the Properties and is able to provide retail water service to the Properties; and

WHEREAS, the City and County desire to enter into a *Fifth Amendment to the Warren County Water Area Contract* in a form substantially similar to Attachment 1 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 of Cincinnati and the City of Mason, the City of Mason has consented to the use of a portion of the Mason Water Utility infrastructure to provide service to the Properties in the unincorporated area of Warren County as described in Attachment 1 herein; 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 *Fifth Amendment to the Warren County Water Area Contract* between the City of Cincinnati (the "City") and the Board of County Commissioners of Warren County, Ohio in substantially the form of the Attachment 1 hereto (the "Amendment") to modify the area in the original water contract 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 water 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: \_\_\_\_\_, 2022

\_\_\_\_\_  
Aftab Pureval, Mayor

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

ATTACHMENT 1

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

This *Fifth Amendment to the Warren County Water Area Contract* (“Fifth Amendment”) is made and entered into effective as of the later of such dates indicated below the parties’ respective signatures hereto (the “Effective Date”) 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, the County and Cincinnati entered into the *Fourth Amendment* effective December 23, 2020 to add certain properties in the unincorporated area of Warren County to the “Warren County Retail Water Area” as defined in the Contract so that they could be served by Cincinnati’s GCWW under the Contract’s terms; and

WHEREAS, additional properties in the unincorporated are of Warren County (listed in Exhibit A hereto) (the “Properties”) do not currently have public water service, and do no have convenient access to a Warren county Water main; and

ATTACHMENT 1

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 Fifth 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 areas shown in the maps 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]

ATTACHMENT 1

**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: \_\_\_\_\_

Sheryl M. M. Long,  
City Manager

Date: \_\_\_\_\_, 20\_\_

**RECOMMENDED BY:**

\_\_\_\_\_  
Verna J. Arnette, Interim Director  
Greater Cincinnati Water Works

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Solicitor

**CERTIFICATION OF FUNDS:**

Date: \_\_\_\_\_

Funding: \_\_\_\_\_

Amount: \_\_\_\_\_

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

ATTACHMENT 1

**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

\_\_\_\_\_  
Assistant Prosecutor

ATTACHMENT 1

EXHIBIT A

*To Fifth Amendment to the Warren County Area Contract*  
(List of Properties)

<b>Account No.</b>	<b>Parcel No.</b>	<b>Area (Acres)</b>	<b>House Number</b>	<b>Road</b>	<b>Township</b>
6500625	12194760010	0.606	5141	Cox-Smith Road	Union
6606563	12133000280	5.049	4800	Cox-Smith Road	Union



ATTACHMENT 1

EXHIBIT B

To Fifth Amendment to the Warren County Area Contract  
(Map Depicting Properties)





**EMERGENCY**

**ALA**

**- 2022**

**AUTHORIZING** the City Manager to execute a *Fifth 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, the City and County entered into the *Fourth Amendment to the Warren County Water Area Contract* effective December 23, 2020 to add certain properties in the unincorporated area of Warren County to the “Warren County Retail Water Area” as defined in the Water Contract so that they could be served by City’s Greater Cincinnati Water Works (GCWW) under the Water Contract’s terms; and

WHEREAS, certain additional properties in the unincorporated area of Warren County (listed in Exhibit A of Attachment 1 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 GCWW has water mains in the vicinity of the Properties and is able to provide retail water service to the Properties; and

WHEREAS, the City and County desire to enter into a *Fifth Amendment to the Warren County Water Area Contract* in a form substantially similar to Attachment 1 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 of Cincinnati and the City of Mason, the City of Mason has consented to the use of a portion of the Mason Water Utility infrastructure to provide service to the Properties in the unincorporated area of Warren County as described in Attachment 1 herein; 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 *Fifth Amendment to the Warren County Water Area Contract* between the City of Cincinnati (the “City”) and the Board of County Commissioners of Warren County, Ohio in substantially the form of the Attachment 1 hereto (the “Amendment”) to modify the area in the original water contract 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 water 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: \_\_\_\_\_, 2022

\_\_\_\_\_  
Aftab Pureval, Mayor

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