

EMERGENCY

City of Cincinnati

An Ordinance No. 310

CHM

AWB

- 2020

AUTHORIZING the City Manager to execute an *Amendment to Lease* with New Cingular Wireless PCS, LLC to extend the term of an existing lease pertaining to space on the City-owned water tower located at 6141 Campus Lane in the Mt. Washington neighborhood of Cincinnati.

WHEREAS, the City of Cincinnati owns the water tower located at 6141 Campus Lane in Cincinnati, which is under the management and control of the Greater Cincinnati Water Works ("GCWW"); and

WHEREAS, the City and New Cingular Wireless PCS, LLC (as successor in interest to Cincinnati SMSA Limited Partnership, a subsidiary of AT&T, Inc.) ("NCWPCS") are parties to a *Lease of Space* dated November 2, 1998 under which NCWPCS leases from the City space on the water tower and associated ground space for the installation and operation of voice and data communications equipment, for a term of 20 years; and

WHEREAS, the term of the *Lease of Space* expired on November 1, 2018, and the lease has continued on a month-to-month basis since that time, and the City and NCWPCS desire to ratify the *Lease of Space* and extend its term for up to an additional 20 years (i.e. an initial term with three 5-year renewal options), on the terms and conditions set forth in the *Amendment to Lease* attached to this ordinance as Attachment A; and

WHEREAS, the City has determined that the area leased by NCWPCS is not needed for a municipal purpose; and

WHEREAS, the City's Real Estate Services Division has determined, by appraisal, that the base rent set forth in the *Amendment to Lease* (namely, \$70,992/year, with annual increases of 4%) reflects the approximate fair market rental value of the leased area; and

WHEREAS, Section 13 of Article VIII of the Ohio Constitution provides that, to create or preserve jobs and employment opportunities and to improve the economic welfare of the people of the State, it is a public interest and proper public purpose for the State or its political subdivisions to sell, lease, exchange, or otherwise dispose of property within the State of Ohio for industry, commerce, distribution, and research; and

WHEREAS, the City has determined that it is in the best interest of the City to eliminate competitive bidding in connection with the City's lease of the leased area to NCWPCS because NCWPCS has been utilizing space on the water tower for the past 22 years and both NCWPCS and GCWW desire to continue the mutually beneficial arrangement; and

WHEREAS, the City Planning Commission approved the *Amendment to Lease* at its meeting on July 17, 2020; 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 an *Amendment to Lease* with New Cingular Wireless PCS, LLC (“NCWPCS”), in substantially the form attached to this ordinance as Attachment A, pursuant to which the City of Cincinnati will ratify and extend the term of the existing *Lease of Space* pertaining to the water tower located at 6141 Campus Lane in Cincinnati, which is controlled by the Greater Cincinnati Water Works, through October 31, 2038.

Section 2. That the leased area is not needed for a municipal purpose.

Section 3. That the City’s Real Estate Services Division has determined, by appraisal, that the base rent set forth in the *Amendment to Lease* (namely, \$70,992/year, with annual increases of 4%) reflects the approximate fair market rental value of the leased area.

Section 4. That it is in the best interest of the City to eliminate competitive bidding in connection with the City’s lease of the leased area to NCWPCS because NCWPCS has been utilizing space on the water tower for the past 22 years and both NCWPCS and GCWW desire to continue the mutually beneficial arrangement.

Section 5. That the rent and other proceeds from the *Lease of Space* shall be deposited into Water Works Fund 312 “Private Lead Service Line Replacement” account 2140 for the purpose of providing financial assistance to qualified, low-income residential property owners for the costs of lead service line replacement.

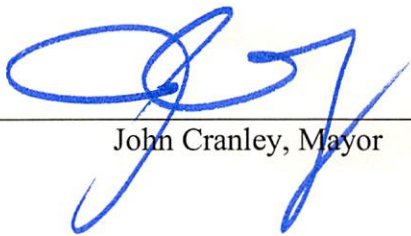
Section 6. That Council authorizes the appropriate City officials to take all necessary and proper actions to fulfill the terms of the *Amendment to Lease* and this ordinance, including without limitation executing any and all ancillary documents.

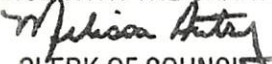
Section 7. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the

terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable the City to promptly execute the *Amendment to Lease* to extend the term so that the additional proceeds generated by the *Amendment to Lease* may provide financial assistance to qualified, low-income residential property owners for the costs of lead service line replacement at the earliest possible time.

Passed: September 14, 2020

Attest: 
Clerk


John Cranley, Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 310-2020
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 9-29-2020

CLERK OF COUNCIL