

ORDINANCE NO. 091, 2022
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO LEASE WITH NEW
CINGULAR WIRELESS PCS, LLC OF CITY-OWNED PROPERTY AT
CITY PARK BALLFIELDS

WHEREAS, the City is the owner of that certain parcel of real property known as the City Park Ballfields (the “Ballfields”) located at 1715 W. Mountain Avenue, Fort Collins, CO 80521; and

WHEREAS, on September 20, 2005, the City Council adopted Ordinance No. 098, 2005, authorizing the City to enter into a Colorado Option and Structure Lease Agreement with New Cingular Wireless PCS, LLC (“New Cingular”) regarding the leased premises located at the Ballfields for the use of a pole for the installation of its personal communications service antenna and related equipment (the “Lease Space”); and

WHEREAS, the City and New Cingular entered into the Colorado Option and Structure Lease Agreement dated October 3, 2005 (the “Lease”) for a six-month option period within which Cingular could choose to move forward with the Lease, then an initial lease term of five years plus two five-year options to renew, and a final renewal period to expire no later than March 8, 2023; and

WHEREAS, New Cingular has requested that the City extend the current Lease term to end on October 20, 2023, instead of March 8, 2023, and grant an extension of the Lease for one additional five-year term starting on October 21, 2023; and

WHEREAS, staff has negotiated with New Cingular proposed terms for an extension and has prepared a First Amendment to Site Lease (“First Amendment”) to extend the Lease, together with all necessary easements for access and utilities set forth in the Lease, by five years; and

WHEREAS, a copy of the proposed First Amendment is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, the First Amendment provides that New Cingular shall pay lease payments at a rate of \$24,000 per year for the initial year, said rate to be increased annually by three percent; and

WHEREAS, the financial benefits to the City of permitting New Cingular’s continued use are substantial, and the impacts to the City of the same are minimal; and

WHEREAS, under Section 23-113 of the City Code, the Council is authorized to lease any and all interests in real property owned in the name of the City, provided that Council first finds that the lease is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby determines that the extension of the term of the Lease along with all necessary easements for access and utilities as set forth in the Lease for the period from March 8, 2023, to October 20, 2023, followed by one additional term of five years, is in the best interests of the City.

Section 3. That the City Council hereby authorizes the City Manager to enter into the First Amendment to Colorado Option and Structure Lease Agreement with New Cingular Wireless PCS, LLC, for the continued use of the Lease Space, consistent with the terms hereof, along with such other provisions as the City Manager, in consultation with the City Attorney, deems necessary or appropriate to protect the interests of the City.

Introduced, considered favorably on first reading and ordered published this 16th day of August, A.D. 2022, and to be presented for final passage on the 6th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 6th day of September, A.D. 2022.

Mayor

ATTEST:

City Clerk