

Proposed: 6/21/2022

ORDINANCE NO. 98-2022 (PSH), *First Reading*

By Mayor Seren

An Ordinance authorizing the Mayor to enter into a Site Lease Agreement with T-Mobile Central LLC or affiliate for the use of a portion of City-owned property located at 3445 Mayfield Road for the construction, installation, operation, maintenance, repair, replacement, and improvement of a wireless communications facility and the grant of associated easements; and declaring the necessity that this Resolution become immediately effective as an emergency measure.

WHEREAS, the City of Cleveland Heights owns certain real property located at 3445 Mayfield Road, Cleveland Heights, Ohio 44118 (“Property”) upon which is located the City’s Fire Station #1 building; and

WHEREAS, T-Mobile Central LLC or an affiliate (“T-Mobile”), a wireless communications provider, has asked the City to: (1) lease to T-Mobile designated space on the roof Fire Station #1 building (“Leased Property”), for the placement of equipment to enhance T-Mobile’s wireless service to its customers, and (2) grant a utility easement and an access easement to T-Mobile to service the equipment and provide wireless communication services; and

WHEREAS, such proposed use and the granting of the easements will not interfere with the use of the Property for municipal purposes and will provide a substantial source of revenue to the City; and

WHEREAS, the proposed agreement would be in the best interest of the City and its residents.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The Mayor be, and he is hereby, authorized to enter into a lease agreement with T-Mobile for the use of a portion of the Property for the construction, installation, operation, maintenance, repair, replacement, and improvement of a wireless communications facility. The Leased Property shall be areas on the top of the Fire Station #1 building as designated in plans on file with the Clerk of Council and Division of Fire. The lease agreement shall permit T-Mobile to use the Leased Property for the transmission and reception of radio communication signals and for the construction, installation, operation, maintenance, repair, removal or replacement of related facilities, including, without limitation, antennas, microwave dishes, equipment shelters and/or cabinets, and related activities. The agreement shall provide for one (1) one-year option period (“Option Period”) and, if the option is exercised, the initial term of the agreement shall be five (5) years (“Initial Term”), with five (5) five-year renewal options (“Renewal Term”) and up to nine (9) successive one-year periods (“Extended Periods”), subject to the City’s right to terminate the lease after expiration of the second, third or fourth Renewal Term, if applicable, or after any Extended Period.

SECTION 2. Compensation for the Option Period shall equal the sum of Two Thousand Dollars (\$2,000.00) for the year. Compensation for the use of the Leased Property during the Initial Term, if the option is exercised, shall equal the sum of Two Thousand One Hundred Dollars (\$2,100.00) per month. Compensation for each of the Renewal Terms, if one or more of the Renewal Team options are exercised, shall equal the sum of One Hundred Ten Percent (110%) of the compensation for the immediately preceding Renewal Term. Compensation for each Extended Period, if one or more of the options are exercised, shall equal the sum of One Hundred Two Percent (102%) of the compensation for the immediately preceding term/year.

SECTION 3. The Mayor be, and is hereby, further authorized to enter into any necessary easement agreements with T-Mobile for access to the Leased Property and for utility purposes. The locations of the easements shall be as agreed upon by the City and T-Mobile and shall in no event interfere with the use of the Property for municipal purposes.

SECTION 4. The easements and lease authorized herein and all related documents shall contain such terms as recommended by the Mayor and Director of Law and shall be approved as to form by the Director of Law.

SECTION 5. It is hereby determined by this Council that the lease and easements authorized herein will not interfere with the use of the City property for municipal purposes.

SECTION 6. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 6. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the timely need to enter into the agreement on a timely manner to meet construction season deadlines. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force and after the earliest time allowed by law.

MELODY JOY HART
President of the Council

CRAIG COBB
Clerk of Council, *Pro Tem*

PASSED:

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Presented to Mayor: _____ Approved: _____

KAHLIL SEREN
Mayor