

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE CERTAIN AMENDMENTS TO TOWER LEASES WITH DALLAS MTA, LP, D/B/A VERIZON WIRELESS AND NEW CINGULAR WIRELESS PCS, LLC, OR THEIR RESPECTIVE SUCCESSORS, AS NEEDED AND WITHIN THE LIMITATIONS SET OUT HEREIN; PROVIDING FOR A REPEALER; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Denton owns a radio tower located at McKenna Park primarily for City use ("McKenna Park Tower");

WHEREAS, the City has leased unused space both on the McKenna Park Tower and ground space adjacent to the same to privately-held wireless communication companies;

WHEREAS, on December 17, 1996, the City entered into a Tower Lease with Dallas MTA, LP (now d/b/a Verizon Wireless), which allowed Verizon to place wireless facilities both on the McKenna Park Tower, and on the ground adjacent to the tower ("Verizon Tower Lease");

WHEREAS, the Verizon Tower Lease has been amended four times since 1996 (February 17, 2009, June 27, 2012, December 17, 2013 and May 18, 2016) to allow Verizon the ability to replace of existing wireless equipment with newer wireless equipment within the existing leased space;

WHEREAS, on June 18, 2002, the City entered into a Tower/Ground Lease Agreement with Cingular Wireless PCS, LLC, which allowed Cingular to place wireless facilities both on the McKenna Park Tower, and on the ground adjacent to the tower ("Cingular Tower/Ground Lease");

WHEREAS, the Cingular Tower/Ground Lease has been amended three times since 2002 (January 6, 2009, July 15, 2014, and October 18, 2016) to allow Cingular the ability to replace of existing wireless equipment with newer wireless equipment within the existing leased space;

WHEREAS, both companies have pending amendments with the City to allow each of them to replace of existing wireless equipment with newer wireless equipment within the existing leased space;

WHEREAS, the past amendments to both leases have typically only changed the type of equipment being allowed on the tower or on the ground and have not changed any other terms and conditions of the respective leases including the term of the lease, the compensation to the City, the space utilized on the tower or the ground, or the impact on the structural integrity of the tower;

WHEREAS, provided any future amendment to either tower lease seeks only to change the type of equipment being used in the leased space and lessee provides evidence satisfactory to the City that neither the structural integrity of the tower is effected nor the City's use of the tower is interfered with, it is a best customer service practice and organizationally efficient for the such amendments to be executed administratively by the City Manager, or his designee;

WHEREAS, the City Council finds it is in the public interest for any amendments to either the Verizon Tower Lease or Cingular Tower/Ground Lease that comply with the criteria set forth above be executed administratively for the City Manager, or his designee; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference.

SECTION 2. The City Manager, or his designee, is authorized, without further authority, guidance, or direction from the Council, to execute any amendments to either the Verizon Tower Lease or the Cingular Tower/Ground Lease that comply with the criteria set forth above, and is further authorized to carry out the rights and duties of the City under the amendments.

SECTION 3. All ordinances or parts of ordinances in force when the provisions of this ordinance became effective which are inconsistent, or in conflict with the terms or provisions contained in this ordinance are hereby repealed to the extent of any such conflict.

SECTION 4. If any section, subsection, paragraph, sentence, clause, phrase or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton, Texas, hereby declares it would have enacted such remaining portions despite any such invalidity.

SECTION 5. This Ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the _____ day of _____, 2017.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, INTERIM CITY ATTORNEY

BY:  _____