Ordinance No. 765-2022
AS AMENDED

By Council Members Polensek and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

To authorize the Director of Public Safety to enter into contracts or amendments to Contract No. CT 6002 SG 2022-015 with Accipiter Radar Corporation to permit Accipiter to sell access to radar data derived from the City's radar system to third parties in exchange for certain maintenance and upgrade services from Accipiter at no charge to the City; and to amend Section 5 of Ordinance No. 674-2020, passed September 9, 2020.

WHEREAS, under Ordinance No. 674-2020, passed September 9, 2020, this Council authorized the Director of Public Safety to apply for and accept a grant from the U.S. Department of Homeland Security for the FY 18 Port Security Grant Program (the "Grant"); and

WHEREAS, Ord. No. 674-2020 also authorized the Director of Public Safety to enter into various purchase and professional services contracts for the purchase and installation of a maritime radar security system, including associated equipment, cloud service, licenses and other services; and

WHEREAS, on February 7, 2022, the Director of Public Safety entered into Contract No. CT 6002 SG 2022-015 with Accipiter Radar Corporation ("Accipiter") for a period of one (1) year for the installation a fully functioning radar system (the "System"), to include equipment, installation, licenses, cloud storage, and related services; and

WHEREAS, after installation of a fully functioning System, Accipiter has proposed to provide annual upgrades, updates, maintenance, support and related services ~~over~~ for a three (3) year period at no charge to the City in exchange for certain data licensing rights from the City permitting Accipiter to share or sell to other governmental entities and to private entities access to radar data derived from the System; and

WHEREAS, to ensure the viability and accuracy of the System over an extended period of time and to benefit from the cost savings, the Director of Public Safety desires to enter into an amendment to Agreement No. CT 6002 SG 2022-015 or by separate ~~contract~~ contracts with Accipiter, to ~~extend data licensing rights to Accipiter for a three (3) year period following installation by Accipiter of a fully-functioning System in~~

~~exchange for Accipiter providing the City with, at~~ extend data licensing rights to Accipiter following installation by Accipiter of a fully functioning System for a ten (10) year period in exchange for Accipiter providing the City during the first three (3) years with, at minimum, annual System maintenance, updates, cloud services, System repairs, and related services, at no additional cost to the City; and

WHEREAS, during the last seven (7) years of the agreement, Accipiter will continue to provide the annual services at the cost of Seventeen Thousand Eight Hundred Fifty Seven Dollars and 14/100 Cents ($17,857.14) per year, subject to annual appropriations by City Council; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Director of Public Safety is authorized to enter into contracts or amendments to Contract No. CT 6002 SG 2022-015 with Accipiter to provide that, after the completion of the installation of a fully functioning radar system by Accipiter, Accipiter shall provide the maintenance, upgrades, support, and other professional services to maintain the viability and accuracy of the System for three (3) years at no cost to the City in exchange for City granting Accipiter ten (10) years of licensing rights to share or sell access to radar data derived from the System to other governmental entities and to private entities.

~~Section 2. That the Director of Public Safety shall have the option of extending the data licensing agreement in exchange for such services from Accipiter, by further written amendments or separate contracts for two (2) additional three (3) year periods.~~

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Section 2. That after year three (3) of maintenance and support for the System at no cost to the City, the Director of Public Safety may enter into annual contracts or amendments with Accipiter for years four (4) to ten (10) for maintenance and support and related services at a yearly amount not to exceed Seventeen Thousand Eight Hundred Fifty Seven Dollars and 14/100 Cents ($17,857.14) per year, subject to annual appropriations by City Council.

Section 3. That Section 5 of Ordinance No. 674-2020, passed September 9, 2020, is amended to read as follows:

> Section 5. That the Director of Public Safety is authorized to employ by contract or contracts one or more consultants, computer software developers, or vendors or one or more firms of consultants, computer software developers, or vendors for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide various professional services and equipment needed to implement this ordinance.
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> The selection of the consultants, computer software developers, or vendors for the services and equipment shall be made by the Board of Control on the nomination of the Director of Public Safety from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Safety for the purpose of compiling a list. The compensation to be paid for the services and equipment shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Safety, and certified by the Director of Finance.

Section 4. That Section 5 of Ordinance No. 674-2020, passed September 9, 2020, is repealed.

Section 5. That the contracts or contract amendments shall be prepared by the Director of Law.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.