

## **ORDINANCE NO. 47-24**

### **AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDED WATER TOWER LEASE WITH CLEVELAND COMMUNICATIONS INC. TO LEASE EQUIPMENT AND SPACE ON THE AVON WATER TOWER LOCATED AT 4859 CENTER ROAD FOR THE PURPOSE OF INSTALLING NECESSARY ANTENNAS AND TO PROVIDE THE NEEDED HARDWARE TO FACILITATE COMMUNICATIONS BETWEEN SAFETY FORCES IN THE CITY OF AVON AND OTHER LOCAL JURISDICTIONS AND DECLARING AN EMERGENCY**

**WHEREAS**, The City of Avon, hereinafter referred to as the “Lessor” or the “Agency”, and Cleveland Communications Incorporated, hereinafter known as the “Lessee” or “CCI”, entered into a Water Tower Lease Agreement on or about June 29, 2021, pursuant to Ordinance No. 45-21, passed on June 28, 2021; and

**WHEREAS**, this lease, among other things, authorized the Lessor to lease to the Lessee “...three (3) FCC Licenses for the operation of the communication system contemplated...” in that lease agreement (See Paragraph 18 of the Water Tower Lease); and

**WHEREAS**, the parties now desire to amend that lease agreement to ensure that the City of Avon, as the subscriber Agency of three licenses from Federal Communications Commission (“FCC”) and CCI memorialize 1) their shared use responsibilities under Rule 90.179 and 2) their delegation of authority for CCI to enter into subcontracting agreements for limited purposes, with third party local governments, i.e., for Police, Fire, EMS, and Dispatching functions; and

**WHEREAS**, this limited purpose authority ensures that the Agency maintains control of the three FCC licenses and that CCI will enter into subcontract agreements 1) only for permissible purposes, 2) in a permissible manner, and 3) by persons with authority to use and operate such equipment, consistent with FCC Rule 90.403.

**WHEREAS**, this amendment is executed pursuant to Section 20 of the original Water Tower Lease entitled COMPLETE AGREEMENT, providing for modification only in writing and signed by both parties.; and

**WHEREAS**, Council, having reviewed the Amended Water Tower Lease with CCI, finds it to be fair and equitable and that authorizing the Mayor to execute same is in the best interests of the health, safety, and welfare of the citizens of Avon.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:**

Section 1 – That the Mayor is hereby authorized to execute the Amended Water Tower Lease with Cleveland Communications, Inc. covering the Mills Road Water Tower located at 4859 Center Road, in substantially the form as set forth in the attached [Exhibit A](#), which is incorporated herein by this reference.

Section 2 - All other provisions of the contract not amended as set forth in Exhibit A remain in full force and effect.

Section 3 – That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to enter into an Amended Water Tower Lease with CCI that will facilitate CCI entering into user agreements with eligible third party governments pursuant to FCC Rule 90.179(d); therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

By: \_\_\_\_\_  
Brian Fischer, Council President

DATE APPROVED BY THE MAYOR: \_\_\_\_\_

\_\_\_\_\_  
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
John A. Gasior, Law Director  
City of Avon, Ohio

ATTEST:

\_\_\_\_\_  
Barbara J. Brooks, Clerk of Council

Posted: \_\_\_\_\_  
Electronically and at City Hall as  
Provided by Council

Prepared By:  
John A. Gasior, Esq.  
Law Director