

NANCY E. FELLOWS
President of Council

JOHN PLECNIK
Vice President of Council

VICTORIA ANN SAVAGE, CMC
Clerk of Council

City of Willoughby Hills

DAVID M. FIEBIG
PAT GREBENC
CHRISTOPHER HALLUM
JANET R. MAJKA
LAURA PIZMOHT

ORDINANCE NO. 2017-81

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO THE FIRST AMENDMENT TO THE OPTION AND GROUND LEASE AND AMENDED MEMORANDUM OF LEASE; REPEALING CERTAIN ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS, the City of Willoughby Hills and TOWERCO 2013 LLC, a Delaware limited liability company entered into that certain Lease Agreement dated June 28, 2016, for certain real property and easements for that certain parcel of real property owned by the City of Willoughby Hills located in the County of Lake, State of Ohio; and

WHEREAS, the City of Willoughby Hills and TOWERCO 2013 LLC, a Delaware limited liability company executed a Memorandum of Lease effective June 28, 2016 with the Lake County Recorder with an Instrument Number 2016R017098 (“Original Memorandum”); and

WHEREAS, the City of Willoughby Hills and TOWERCO 2013, LLC hereby agree to modify the legal description for the Premises to the Lease and the Original Memorandum as illustrated in the “Exhibit B”, attached hereto consisting of four (4) pages.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO THAT:

SECTION 1. The Mayor is hereby authorized and directed to enter into *The First Amendment to the Option and Ground Lease and Amended Memorandum of Lease* by and between the City of Willoughby Hills and TOWERCO 2013 LLC, a Delaware limited liability company, consisting of four (4) pages, attached hereto and marked as the “Exhibit A”, modifying the legal description for the Premises to the Lease and the Original Memorandum as illustrated in the “Exhibit B”, consisting of four (4) pages, attached hereto.

SECTION 2. The legal descriptions of the Property currently contained in Exhibit B to the Lease are hereby deleted in their entirety and the new legal descriptions contained in the “Exhibit B”, attached hereto and incorporated herein by this reference, are hereby substituted in their place.

SECTION 3. The purpose of this First Amendment is to give record notice of the Lease and of the rights created thereby, all of which are hereby confirmed.

SECTION 4. Except as expressly amended hereby, all terms and conditions of the Lease shall remain in full force and effect, and in the event of any inconsistencies between this First Amendment and the terms of the Lease, the terms set forth in this Amendment shall govern and control. Defined terms used herein without definition shall have the meaning given to them in the Lease. The covenants, representations and conditions in the Lease are mutual and dependent.

SECTION 5. The actions of this Council concerning and relating to the passage of this legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby Hills.

SECTION 6. This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills insofar as it provides for the usual daily operation of a municipal department, and further provides for the facilitation of the Option and Ground Lease Agreement dated June 28, 2016 for the purposes of constructing and operating a telecommunication tower and appurtenances for the vacant platted lot located on Miller Road (PPN 31-A-025-0-00-003-0), acquired by the City in November of 2015. Wherefore, this ordinance shall be in full force and take effect from and after its adoption and approval by the Mayor.

PASSED: *[Signature]*, 2018

Nancy E. Fellows
Nancy E. Fellows
President of Council

Submitted to the Mayor for his approval
on this 12 day of January, 2018

Approved by the Mayor
January 12, 2018

ATTEST:
[Signature]
Victoria Ann Savage, CMC
Clerk of Council

Robert M. Weger
Robert M. Weger
Mayor