

**ORDINANCE NO. 8-23**

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENGAGE THE SERVICES OF  
THE LAW FIRM OF ROETZEL & ANDRESS TO ASSIST THE CITY IN  
NEGOTIATING A CONTRACT WITH LIT COMMUNITIES  
(OR SIMILAR ENTITY) TO EXPLORE THE INSTALLATION/OPERATION  
OF A FIBER OPTIC NETWORK WITHIN THE CITY  
AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Avon is currently in discussions with LIT Communities Broadband, Inc. and actively exploring the potential installation and operation of a fiber optic infrastructure network project that would service residential, businesses, anchor institutions and backhaul wireless or smart city service ("FTTX") within the City of Avon; and

**WHEREAS**, to fully protect the city's interests in this exploration and to achieve the best possible result for the City of Avon and all of its residents and businesses, the Law Director recommends the hiring of outside counsel with considerable experience in this area; and

**WHEREAS**, Council, upon recommendation of the Administration, deems it to be in the best interest of the health, safety and welfare of the citizens of Avon that outside special counsel be retained as quickly as possible to assist the Law Director in representing the interests of the city as set forth herein.

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

Section 1 - Effective upon the passage of this Ordinance, and pursuant to Article V, Section 2 of the Charter of the City of Avon, Council hereby authorizes the administration to retain the services of Roetzel & Andress, (hereinafter referred to as Roetzel, as special counsel to assist the Law Director in all matters relating to exploring the potential installation and operation of a fiber optic infrastructure network that would service residential, businesses, anchor institutions and backhaul wireless or smart city service ("FTTX") within the City of Avon.

Section 2 - That the proposal for these services submitted by Attorney William R. Hanna of Roetzel is hereby accepted. Said proposal is marked as Exhibit A and made a part of this Ordinance by reference.

Section 3 - The Finance Director is hereby authorized to make payment from the General Fund No. 101-730-5348 in the amount set forth herein.

Section 4 - 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 5 - 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

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Avon, the immediate emergency being the necessity to retain special counsel for matters concerning the potential installation of a fiber infrastructure network project within the city; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: February 13, 2023

DATE SIGNED: February 13, 2023

BY: Brian Fischer  
Brian Fischer, President of Council

DATE APPROVED BY THE MAYOR: February 14, 2023

[Signature]  
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior  
John A. Gasior, Law Director

ATTEST:

Barbara Brooks  
Barbara Brooks, Clerk of Council

Posted: February 15, 2023  
Electronically and at City Hall as  
Provided by Council

Prepared By:

John A. Gasior, Esq.  
Law Director

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 8-23, passed by the Council of said City on February 13, 2023.

IN WITNESS WHEREOF, I have on this 14<sup>th</sup> day of February, 2023, affixed my signature and official seal.

Barbara J. Brooks  
Barbara J. Brooks, Clerk of the Council  
of the City of Avon, Ohio

February 10, 2023

*Via Email and Regular U.S. Mail*

The Honorable Bryan Jensen, Mayor  
City of Avon, Ohio  
36080 Chester Road  
Avon, Ohio 44011

Re: **Legal Services – City of Avon – Telecommunications/Fiber Optic Issues**

Dear Mayor Jensen:

We are pleased that the City of Avon has requested a proposal from the law firm of Roetzel & Address (Roetzel) for legal services in connection with the City's consideration of a fiber optic communications project.

Fundamental to an attorney-client relationship is a clear understanding of the terms and conditions upon which we will be providing legal services. Accordingly, the purpose of this letter is to clarify and to confirm these terms and conditions. I will have primary responsibility for this matter, but I may utilize other attorneys in the office in the best exercise of my professional judgment. If at any time you have questions or concerns, please don't hesitate to contact me.

*Scope of Services*

Pursuant to discussions with the Director of Law, it is our understanding that we will assist the City of Avon in considering legal aspects of a potential fiber optic communications system in the City, which may include consideration of ownership and operational options and preparation or review of contracts or other related documents, and various meetings with City employees and officials.

*Fees, disbursements, and other charges*

Fees for our services are based upon the actual time expended by each attorney or paralegal or other support personnel working on your matter, at specified hourly rates described herein. Partial hours are billed in tenths of an hour. We will cap our charges to the City of Avon on the discounted maximum rate of \$350 per hour for partners. For associates, we will charge the

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associate's standard rate, up to a maximum of \$265 per hour. Paralegal time will be charged at the rate of \$125 per hour.

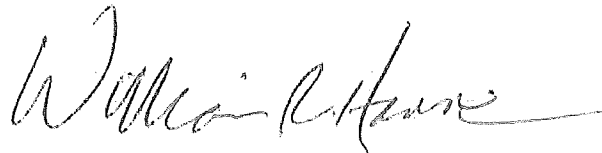
We will also charge the City for all disbursements made on your behalf, including copying charges, mileage, and the like. Our Firm policy is that we cannot pay expenses exceeding \$1,500 for the City, and invoices for any such services would be forwarded to the City for direct payment. At this time, I do not anticipate incurring any substantial expenses on behalf of the City.

The time needed to perform the services described in "Scope of Services" is difficult to predict at this time, but we agree that we will not charge legal fees in excess of \$5,000 without further, written consent of the City.

Either party may terminate this engagement at any time, for any reason, by written notice, subject on Roetzel's part to the applicable rules of professional conduct. In the event the engagement should be terminated, we will take such steps as are reasonably practicable to protect the City's interests. Unless previously terminated, our representation will terminate upon our sending you a final statement for services rendered. Following such termination, any otherwise non-public information you have supplied to us will continue to be kept confidential in accordance with applicable rules of professional conduct.

If the foregoing terms and conditions are satisfactory, please indicate your approval and acceptance by signing and returning this letter, or a scanned copy of the letter. We look forward to working with the City of Avon on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "William R. Hanna", with a long horizontal flourish extending to the right.

ROETZEL & ANDRESS  
William R. Hanna, Shareholder

WRH: lrp  
Enclosures


cc: John Gasior, Law Director

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On behalf of the City of Avon, I have read and understand the terms and conditions set forth in this letter, agree to same, and have the authority to bind the City of Avon to this letter agreement.

City of Avon, Ohio

By:   
Bryan Jensen, Mayor

Date: February 14, 2023

**Fiscal Officer's Certificate**

As the Finance Director and fiscal officer of the City of Avon, Ohio, I certify that as of the date of execution of the within Engagement Letter agreement with the law firm of Roetzel & Andress, the amount required to satisfy payment under the agreement has been fully appropriated, or authorized or directed for such purpose, and is in the treasury to the credit of the fund for which it is drawn, or in the process of collection, and not appropriated for any other purpose.

  
Signature of Finance Director

STEVE PRESLEY  
Print Name

Date: 2.14.23