

RESOLUTION

RESOLUTION OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF LIVINGSTON AUTHORIZING EXECUTION OF A RIGHT OF WAY AGREEMENT WITH FIBER TECHNOLOGIES NETWORK LLC (“FIBERTECH”)

WHEREAS, Fiber Technologies Network LLC (“Fibertech”) has requested the consent of the Township of Livingston to occupy the public right of way within the Township of Livingston for a period of ten years for the purpose of constructing, installing, operating, repairing, maintaining and replacing a telecommunications system; and

WHEREAS, it is deemed in the best interest of the Township and its citizenry, particularly the commercial and industrial citizens for the Township to grant permission to Fibertech to occupy the public right of way within the Township for this purpose; and

WHEREAS, the granting of such permission is and shall be conditioned upon Fibertech continued compliance with all existing and future ordinances of the Township and its entering into a written agreement with the Township, *inter alia*, indemnify, and hold the Township harmless as to all claims and liability resulting from injury or damage which may arise from the construction, installation, operation, repair, maintenance, disconnect, replacement and removal of its telecommunication system within certain public rights of way and provide liability insurance coverage for personal injury and property damage; and

WHEREAS, pursuant to N.J.S.A. 54:30A-124 the Township may charge reasonable fees for actual services in the processing and approval of this application.

NOW, THEREFORE, be it resolved by the Township Council of the Township of Livingston in the County of Essex, State of New Jersey, that permission is granted to Fibertech to occupy the public rights of way within the Township of Livingston for the purpose of construction, installation, operation, repair, maintenance and replacement of a telecommunications system for a period of ten years.

BE IT FURTHER RESOLVED, that the within granted permission is conditioned upon Fibertech entering into an agreement in a form acceptable to the Township Attorney providing liability and property damage insurance and that in the event Fibertech fails to provide the required insurance the agreement may be terminated upon written notice to Fibertech. Pursuant to N.J.S.A. 54:30A-124 and based on its previous experience with similar providers that Fibertech provide an escrow payment in the amount of \$5,000.00 to cover anticipated administrative, legal and engineering fees in reviewing and processing an application for the construction and installation of a telecommunications system.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute the right of way use agreement with Fiber Technologies Network LLC.

Approved as to form:

Arlene A. Johnson, Mayor

Sharon L. Weiner
Township Attorney

Glenn R. Turtleaub Township Clerk

Adopted: