

RESOLUTION NO. 17-175

**A RESOLUTION OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY, APPROVING A RIGHTS-OF-WAY USE AGREEMENT
WITH CROSS RIVER FIBER, LLC FOR THE INSTALLATION OF FIBER OPTIC CABLES
ON EXISTING UTILITY POLES IN THE PUBLIC RIGHT-OF-WAY**

Councilman Taylor offered the following resolution and moved its approval:

WHEREAS, Cross River Fiber was approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State of New Jersey by Order of Approval in Docket No. TE11050320 on July 14, 2011, Docket No. TE12040297 on June 18, 2012 and Docket No. TM14080906 and intends to provide telecommunication services in accordance with that Order and the rules and regulations of the Federal Communications Commission and the New Jersey Board of Public Utilities; and

WHEREAS, pursuant to such authority granted by the New Jersey Board of Public Utilities, Cross River Fiber may locate, place, attach, install, operate and maintain facilities within Public Rights-of-Way in municipalities throughout the State of New Jersey for purposes of providing telecommunications services; and

WHEREAS, the Borough of Red Bank has received a request from Cross River Fiber to place its facilities aerially on existing utility poles in the Public Rights-of-Way within the Borough for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

WHEREAS, it is in the best interests of the Borough and its citizenry to grant consent to Cross River Fiber to occupy said Public Rights-of-Way within the Borough for this purpose; and

WHEREAS, the Borough and Cross River Fiber have negotiated a Rights-Of-Way Use Agreement for the grant of the Borough's consent for the non-exclusive use of the Public Rights-of-Way within the Borough for the purpose of owning, constructing, installing, operating, and maintaining Cross River Fiber's telecommunications system; and

WHEREAS, Cross River Fiber shall comply with Chapter 352: "Fiber Optic Cables" of the Revised General Ordinances of the Borough, in the form of Ordinance that is to be simultaneously adopted at the same Council meeting together with this Resolution; and

WHEREAS, because Cross River Fiber's proposed installations are entirely aerial on existing utility poles and only nominal engineering review will be required, the Borough has agreed to waive the engineering escrow required by Chapter 352: "Fiber Optic Cables" of the Revised General Ordinances of the Borough; and

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Red Bank, County of Monmouth, State of New Jersey that:

1. Cross River Fiber is hereby authorized to enter upon the Public Rights-of-Way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate and replace its telecommunications facilities, in or on Utility Poles or other structures owned by public utility companies, or others, or to be constructed by Cross River Fiber within the Public Rights-of-Way as may be permitted by the property owner, as the case may be; and
2. Cross River Fiber, and its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements related to the use of the Public Rights-of-Way; and
3. Cross River Fiber shall comply with Chapter 352: "Fiber Optic Cables" of the Revised General Ordinances of the Borough, in the form of Ordinance that shall be simultaneously introduced at the same Council meeting together with this Resolution; and

- 4. The engineering escrow required by Borough Code Section 352-3(A)(1) shall be waived in connection with this application; and
- 5. The Mayor is hereby authorized to execute the Rights-Of-Way Use Agreement with Cross River Fiber, attached hereto as Exhibit A, upon approval being granted to Cross River Fiber pursuant to Chapter 352: "Fiber Optic Cables" of the Revised General Ordinances of the Borough.

Seconded by Councilwoman Horgan and approved on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Yngstrom	(X)	()	()	()
Councilman Zipprich	(X)	()	()	()
Councilwoman Horgan	(X)	()	()	()
Councilwoman Schwabenbauer	(X)	()	()	()
Councilman Taylor	(X)	()	()	()
Councilman Whelan	(X)	()	()	()

Dated: July 26, 2017