

RESOLUTION NO. 2016-117

RESOLUTION OF THE TOWNSHIP OF ABERDEEN AUTHORIZING THE EXECUTION OF A RIGHTS-OF-WAY USE AGREEMENT WITH CROSS RIVER FIBER, LLC TO PERMIT THE INSTALLATION, USE AND MAINTENANCE OF FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY FOR PURPOSES OF PROVIDING TELECOMMUNICATIONS SERVICES

WHEREAS, the Township of Aberdeen (“Township”) is a municipal corporation of the State of New Jersey, Monmouth County, established in accordance with N.J.S.A. 40A:60-1 et seq.; and

WHEREAS, Cross River Fiber, LLC (“Cross River”) is a privately-held company organized under the laws of the State of Delaware with offices located at 461 Headquarters Plaza, Morristown, New Jersey, and is authorized to provide local exchange and interexchange telecommunications services throughout the State of New Jersey pursuant to an Order issued by the New Jersey Board of Public Utilities, dated June 18, 2012, in Docket No. TE12040297; and

WHEREAS, pursuant to the Order, Cross River is authorized to locate, place, attach, install, operate and maintain its fiber optic cables installed and operated within the municipal right-of-way for purposes of providing telecommunications services (“Facilities”); and

WHEREAS, Cross River has requested the consent of the Township to occupy public rights-of-way within the Township for a period of fifty (50) years for the purpose of constructing, installing, operating, repairing, maintaining and replacing a telecommunications system; and

WHEREAS, the granting of such consent is and shall be conditional upon Cross River’s continued compliance with all existing and future ordinances of the Township and its entering into a written Rights-of-Way Use Agreement, attached hereto as Exhibit A, with the Township to, among other things, indemnify and hold the Township harmless as to all claims and liability

resulting from any injury or damage that may arise from the construction, installation, operation, repair, maintenance, disconnect, replacement and removal of its Facilities within certain public rights-of-way, as contemplated in such Rights-of-Way Use Agreement, and provide liability insurance coverage for personal injury and property damage; and

WHEREAS, it is deemed to be in the best interests of the Township and its citizens for the Township to grant municipal consent to Cross River to occupy the public rights-of-way within the Township for this purpose; and

WHEREAS, the Mayor and Council of the Township have indicated a willingness to execute a Rights-of-Way Use Agreement to Cross River, pursuant to the terms and conditions of the Rights-of-Way Use Agreement;

NOW, THEREFORE, BE IT RESOLVED NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Township of Aberdeen, in the County of Monmouth, State of New Jersey as follows:

1. That a non-exclusive consent is hereby granted to Cross River to occupy the public rights-of-way within the Township for the purpose of construction, installation, operation, repair, maintenance and replacement of its Facilities for telecommunication services for a period of fifty (50) years.

2. The non-exclusive consent granted herein is conditioned upon Cross River entering into a Rights-of-Way Use Agreement with the Township and providing liability and property damage insurance coverage.

3. The Mayor is hereby authorized to execute and Township Clerk is hereby authorized to attest to the Rights-of-Way Use Agreement, in substantially similar form and substance attached hereto as **Exhibit A** and made a part hereof.

4. A copy of this Resolution and the executed Rights-of-Way Use Agreement shall be filed in the Office of the Township Clerk.

5. This Resolution shall take immediate effect.