

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

RESOLUTION 2019-37

A RESOLUTION AUTHORIZING THE USE OF THE TOWNSHIP RIGHT-OF-WAYS
BY PLANET NETWORKS, INC. TO DEPLOY FIBER OPTIC CABLING

WHEREAS, Planet Networks, Inc. (“Planet Networks”), seeks to place its telecommunication facilities aerially on existing and new utility poles and/or in underground conduit in the public rights-of-ways within Lafayette Township for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

WHEREAS, Planet Networks was approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State; and

WHEREAS, N.J.S.A. 48:3-19 requires Planet Networks to obtain the consent of Lafayette Township for the joint use of any existing utility poles; and

WHEREAS, New Jersey law permits such use provided that there is the consent of the relevant municipality; and

WHEREAS, N.J.S.A. 54:30A-124(1) provides that a municipality may not impose any fees, taxes, levies or assessments in the nature of a local franchise, right-of-way, or gross receipts fee, tax, levy or assessment against telecommunications companies but that a municipality may impose reasonable fees for actual services made by any municipal, regional or county governmental agency; and

WHEREAS, it is in the best interest of Lafayette Township and its citizens to grant consent to Planet Networks.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Lafayette, Sussex County, New Jersey that:

1. The Township Committee does hereby grant permission and authority to Planet Networks, and its successors and assigns, to use conduit and poles erected by parties that have the lawful right to maintain conduit and poles within the public right-of-ways in Lafayette Township, subject to the following:
 - a. Planet Networks, and its successors and assigns, shall adhere to all applicable Federal, State and Locals laws regarding safety requirements related to the use of the public right-of-ways.
 - b. Planet Networks, and its successors and assigns, shall comply with all applicable Federal, State and Local laws requiring permits prior to beginning construction and shall obtain any applicable permits that may be required by Lafayette Township.
 - c. Such permission be and is hereby given upon the condition and provision that Planet Networks, and its successors and assigns, shall indemnify, defend and hold harmless Lafayette Township, its officers, agents and servants, from any claim of liability or loss or bodily injury or property damage resulting from or arising out of the acts or omissions of Planet Networks or its agents in connection with the

use and occupancy of conduit and poles located within the public right-of-ways, except to the extent resulting from the acts or omissions of Lafayette Township.

d. Planet Networks shall, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. Planet Networks shall include Lafayette Township as an additional insured.

e. Planet Networks shall be responsible for the repair of any damage to paving, existing utility lines or any surface or subsurface installations arising from its construction, installation or maintenance of its facilities.

f. Notwithstanding any provision contained herein, neither Lafayette Township nor Planet Networks shall be liable to the other consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this instrument.

g. This instrument shall be adopted on behalf of Lafayette Township by the Lafayette Township Committee and attested to by the Lafayette Township Clerk who shall affix the Lafayette Township seal thereto.

h. The Mayor is hereby authorized to execute, and the Township Clerk to attest, to any other documents necessary to effectuate the terms of this Resolution.

i. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose conduit and poles Planet Networks is using.

STATEMENT: This Resolution authorizes Planet Networks to use conduit and poles erected within the public right-of-ways of Lafayette Township by parties that have the lawful right to maintain such conduit and poles.

CERTIFICATION

Certified as a true copy of a Resolution adopted by the Lafayette Township Committee, Sussex County, New Jersey at a meeting held on August 6, 2019.

Anna Rose Fedish, RMC
Municipal Clerk