

Township of West Milford

Passaic County, New Jersey

~ Resolution 2021 – 326 ~

RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AUTHORIZING PLANET NETWORKS, INC. TO USE NEW AND EXISTING POLES ERECTED WITHIN THE PUBLIC RIGHTS-OF-WAY FOR THE INSTALLATION OF TELECOMMUNICATIONS EQUIPMENT

WHEREAS, Planet Networks, Inc. ("Planet Networks") is a telecommunications services provider authorized by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout New Jersey; and

WHEREAS, in accordance with N.J.S.A. 48:3-19, N.J.S.A. 27:16-6 and N.J.S.A. 48:17-8, Planet Networks has petitioned the Township of West Milford for consent to use the public rights-of-way to place its telecommunication facilities aerially on existing and new utility poles and/or in underground conduit; and

WHEREAS, Planet Networks has or will enter into agreements with the utility companies for the use of their poles; and

WHEREAS, N.J.S.A. 48:3-19 provides that "[t]he consent of the municipality shall be obtained for the use by a person of the poles of another person unless each person has a lawful right to maintain poles in such street, highway or other public place."; and

WHEREAS, N.J.S.A. 27:16-6 provides, in part, that "[t]he board of chosen freeholders shall not grant an easement, right of way, or use in, under or over, any portion of a county road in a municipality, unless the governing body of the municipality, or the board of public utility commissioners, shall consent thereto. When, in connection with any such grant, the consent of property owners is required by law, it shall be obtained before such grant of any such easement, right of way or use."; and

WHEREAS, N.J.S.A. 48:17-8 provides that, "[a]ny telegraph or telephone company organized under the laws of this or any other State, or of the United States may erect, construct and maintain the necessary poles, wires, conduits, and other fixtures for its lines, in, upon, along, over or under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles, and through, across or under any of the waters within this State and upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same"; and

WHEREAS, the Mayor and Township Council finds that it is in the best interest of the Township and its citizens to grant such consent to Planet Networks.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of West Milford, in the County of Passaic and State of New Jersey, that it does hereby grant permission and authority to Planet Networks to install fiber optic cables and related facilities on existing utility poles within the public rights-of-way and to install new utility poles, upon the following terms and conditions:

1. Planet Networks shall adhere to all applicable federal, State, and local laws in connection with its use of the public right-of-way.
2. Planet Networks shall obtain any applicable permits in connection with the installation of its facilities;

3. Planet Networks shall indemnify, defend and hold harmless the municipality, its officials, agents, and employees, from and against any claim of liability, damages or loss resulting in bodily injury or property damage arising out of Planet Network's use of the public right-of-way, except to the extent such loss, injury or property damage resulting from the acts or omissions of the municipality.
4. Planet Networks shall procure and maintain, at its cost and expense, 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 and shall include the municipality as an additional insured on said insurance policy.
5. Planet Networks shall be responsible for the repair of any damage to pavement or any structure arising from its construction, installation or maintenance of its facilities.
6. Notwithstanding any provision contained herein, neither the municipality nor Planet Networks shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this consent.
7. That the Mayor is hereby authorized to execute and the Clerk to attest to any other documents necessary to effectuate the terms of this resolution.
8. If a new utility pole is to be installed, Planet Networks, Inc., agrees to submit an escrow of \$750 for the application.
9. In addition, Planet Networks, Inc. shall provide an escrow of \$750 and reimburse the Township for any actual costs and any services rendered by the Township or its professionals in connection with the granting of this consent and use of the public right of way.
10. The term of this consent shall be fifteen (15) years.
11. Planet Networks, Inc. will supply the Township in advance of the installation of the fiber optics with appropriate mapping and notification of the installation of the fiber optic at least fifteen (15) days before undertaking such work.

This Resolution shall take effect immediately.

Adopted: September 8, 2021

Adopted this 8th day of September, 2021
and certified as a true copy of an original.

William Senande, Township Clerk