



Legislation Details (With Text)

File #: 15-1705 **Version:** 1 **Name:** Dark Fiber License Agreement with NCEDC
Type: Ordinance **Status:** Adopted
File created: 9/4/2015 **In control:** Administration
On agenda: 7/7/2016 **Final action:** 8/3/2016

Title: AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH NEWARK COMMUNITY ECONOMIC DEVELOPMENT CORPORATION, 111 MULBERRY STREET, SUITE 1, NEWARK, NEW JERSEY, 07102, FOR AN UNUSED PORTION OF THE CITY'S DATA NETWORK ("DARK FIBER") FOR THE DEVELOPMENT OF SMART CITY INITIATIVES AND GIGABIT CONNECTIVITY, FOR A TERM OF FIVE (5) YEARS, FOR A NOMINAL CONSIDERATION OF FIVE DOLLARS (\$5.00) WITH ONE (1) FIVE YEAR OPTION TO RENEW SAID LEASE AND NEGOTIATE AN ANNUAL FEE FOR SAID RENEWAL.

Sponsors: Council of the Whole

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Code sections:

Date	Ver.	Action By	Action	Result
8/3/2016	1	Municipal Council	Close on Public Hearing and Adopt	Pass
7/7/2016	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH NEWARK COMMUNITY ECONOMIC DEVELOPMENT CORPORATION, 111 MULBERRY STREET, SUITE 1, NEWARK, NEW JERSEY, 07102, FOR AN UNUSED PORTION OF THE CITY'S DATA NETWORK ("DARK FIBER") FOR THE DEVELOPMENT OF SMART CITY INITIATIVES AND GIGABIT CONNECTIVITY, FOR A TERM OF FIVE (5) YEARS, FOR A NOMINAL CONSIDERATION OF FIVE DOLLARS (\$5.00) WITH ONE (1) FIVE YEAR OPTION TO RENEW SAID LEASE AND NEGOTIATE AN ANNUAL FEE FOR SAID RENEWAL.

WHEREAS, the City of Newark owns a surplus of dark fiber within the City's fiber optic network ("Dark Fiber Network"); and

WHEREAS, the City has unused portions of its data network ("Dark Fiber") which could be developed into Smart City applications, which will provide advanced communications and other means of making the City more responsive through technology, and used to offer gigabit bandwidth; and

WHEREAS, the City's 2012 Master Plan devotes a section to Broadband and Technology and includes four specific strategies to utilize and improve existing City-wide broadband infrastructure and Strategy 7.1 is to "expand the reach and capacity of next-generation broadband connectivity to support economic and community development, "benefitting all residents; and

WHEREAS, due to the City's surplus of Dark Fibers, a portion of said Dark Fibers are not needed for use by the municipality; and

WHEREAS, Newark Community Economic Development Corporation, 111 Mulberry Street,

Suite 1, Newark, New Jersey 07102, ("Newark CEDC") is a not-for-profit corporation, and acts as the primary economic development catalyst for Newark with the goal of producing sustained economic growth, generating jobs, and creating wealth for the citizens of Newark benefiting all residents; and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et. seq., provides for a municipality to lease to a non-profit corporation or association for a public purpose in accordance with N.J.S.A. 40a:12-15(i); and

WHEREAS, the City desires to enter into a lease agreement with Newark CEDC, pursuant to the provisions of N.J.S.A. 40A:12-14(c) for the public purpose of developing the City's existing fiber network, advancing its wireless technology and other resources to provide high speed internet access and Smart City application solutions to Newark residents for a term of five (5) years with one (1) five year option to renew.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. The Mayor, and/or his designee, the Business Administrator, is authorized to enter into a Lease Agreement ("Agreement") with Newark Community Economic Development Corporation, located at 111 Mulberry Street, Suite 1, Newark, New Jersey, its successors and assigns (" Lessee", "Newark CEDC"), for the right to operate, repair, maintain, and expand twenty four (24) unused portions of the City's data network ("Dark Fiber") as set forth on the attached map labeled "Appendix A: Dark Fiber."

Section 2. The term of the lease shall be for five (5) years, commencing on the date of execution of the Lease Agreement. The City, upon approval by the Newark Municipal Council, shall have one (1) five (5) year option to renew the Lease Agreement with Newark CEDC.

Section 3. Newark CEDC shall pay a nominal consideration of Five (5) Dollars and Zero Cents for the first term of five years. Upon the City's option to renew the Lease Agreement, the City and Newark CEDC, shall negotiate and agree upon an Annual Fee for the renewal term.

Section 4. Approximately 277,140 Newark residents will benefit from this Agreement, which will serve a public purpose in accordance with N.J.S.A. 40a:12-15(i) within the City of Newark.

Section 5. The Office of Information Technology shall be responsible for the enforcement of the covenants and conditions of the Lease Agreement.

Section 6. Newark CEDC, shall annually submit a report, pursuant to N.J.S.A. 40A:12-14(c), to the Office of Information Technology of the City of Newark.

Section 7. Newark CEDC shall adhere to all applicable requirements of Federal, State and local laws.

Section 8. Authorization of the Lease Agreement is hereby given upon the condition and provision that Newark CEDC shall be liable for and indemnify, defend and hold the City harmless from any and all liabilities as set forth in and arising out of the Lease Agreement.

Section 9. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance authorizes the Mayor, and/or his designee, the Business Administrator to execute and enter into a Lease Agreement with Newark Community Economic Development Corporation, 111 Mulberry Street, Suite 1, Newark, New Jersey 07102, for an unused portion of the City's data network ("Dark Fiber") for the public purpose of developing the City's existing fiber network, advancing its wireless technology and other resources to provide high speed internet access and provide Smart City application solutions to Newark residents, for a term of five (5) years, nominal consideration of Five Dollars (\$5.00), with one (1) five year option to renew.