

RESOLUTION NO. 7592

A RESOLUTION OF THE CITY OF LAWRENCE, KANSAS, ESTABLISHING CERTAIN POLICIES RELATING TO THE CITY'S ADMINISTRATION OF ITS FIBER OPTIC CABLE NETWORK, INCLUDING THE INSTALLATION OF FIBER INFRASTRUCTURE AND FIBER OPTIC CABLE, COOPERATION WITH COMMUNITY ANCHOR INSTITUTIONS, LEASING SURPLUS DARK FIBER TO THE PRIVATE SECTOR, ESTABLISHING A LIST OF CITY-APPROVED VENDORS, AND REPEALING CITY RESOLUTION NO 7907.

WHEREAS, the City of Lawrence, Kansas, owns a fiber optic cable network that it uses to provide for its telecommunications needs and to enhance the services it offers to its residents;

WHEREAS, in order to maximize efficiency within that fiber optic cable network, the City is committed to establishing a fiber optic ring and redundancies within that ring;

WHEREAS, the installation of Fiber Infrastructure and fiber optic cables is most cost effective when it is completed in conjunction with street, utility, and other public infrastructure projects;

WHEREAS, the Governing Body finds that it is in the best interest of the City and the general public to establish certain policies regarding the installation of Fiber Infrastructure and fiber optic cables in conjunction with certain street, utility, and other public infrastructure projects;

WHEREAS, it is cost effective for the City -- in that it avoids unnecessary and costly duplication of efforts -- to cooperate with Community Anchor Institutions in the installation and use of Fiber Infrastructure and fiber optic cables;

WHEREAS, the Governing Body finds that it is in the best interest of the City and the general public to establish certain policies regarding cooperation with Community Anchor Institutions for the installation and use of Fiber Infrastructure and fiber optic cables;

WHEREAS, because it is cost effective, the City customarily installs the maximum feasible amount of fiber optic cables within its Fiber Infrastructure and, as a result, has surplus dark fiber within its fiber optic cable network;

WHEREAS, the Governing Body has heard from businesses and residents of the City complaining that there exist barriers limiting access to high-speed, fiber-based internet services;

WHEREAS, in order to eliminate barriers limiting access to high-speed, fiber-based internet services within the City and in order to enhance those internet services available to businesses and residents of the City, the Governing Body finds that it is in the best interest of the City and the general public to establish certain policies permitting the City, in certain circumstances, to lease surplus dark fiber within its fiber optic network, on a competitively-neutral basis, to the private sector; and

WHEREAS, the Governing Body finds that it is also in the best interest of the City and the general public, in order to protect its Fiber Infrastructure and fiber optic cable network, to establish and to maintain, with respect to its Fiber Infrastructure and fiber optic cable network, a list of City-approved vendors.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION 1. DEFINITIONS. The following words, terms, and phrases, when used in this Resolution, shall have the following meanings:

- (a) **"Community Anchor Institutions"** includes, but is not limited to entities such as schools, institutions of higher education, libraries, hospitals and medical providers, public safety providers, and other community support organizations and agencies.
- (b) **"Dark Fiber"** means any fiber optic strands within a cable not in current use.
- (c) **"Director"** means the Director of the City's Department of Municipal Services and Operations.
- (d) **"Fiber Infrastructure"** means City-owned conduits, inner-ducts, vaults, handholes, and other facilities through which the City may use, maintain, and repair its fiber optic cable network.
- (e) **"Surplus Dark Fiber"** means any City-owned fiber optic strands within its fiber optic cable network not currently in use by the City and which the City has not reserved for future use.
- (f) **"Surplus Dark Fiber Map"** means that map, maintained by the City Clerk, made available to the general public for inspection, and updated from time to time, illustrating the City's official inventory of Surplus Dark Fibers.
- (g) **"Symmetrical"** means, in the context of internet service, equal speeds for uploading and downloading data/content from the internet.
- (h) **"Vault"** means any access point (*e.g.*, pull box, hand hole, manhole, *etc.*) within the City's Fiber Infrastructure from which the City can conventionally perform work to maintain and repair its fiber optic cable network.

SECTION 2. INSTALLATION OF FIBER INFRASTRUCTURE AND FIBER OPTIC CABLE.

- (a) **Policy.** It is the express policy of the City, when in the course of planning or designing street, utility, or other public infrastructure projects to be located in the City's rights of way, whenever such project is planned along arterial or collector streets or when it otherwise meets the objectives of the City's technology master plan, to consider the potential for installing Fiber Infrastructure and fiber optic cables in conjunction with that project.
- (b) **Inter-department Cooperation.** When planning or designing street, utility, or other public infrastructure projects that meet the criteria identified in subsection (a), *supra*, the City department charged with planning or designing the street, utility, or other public infrastructure project shall consult and cooperate with the City's Fiber and Right of Way Manager, regarding the City's Fiber Infrastructure and fiber optic cable needs.

- (c) **Fiber Infrastructure Standards.** Conduit installed by the City shall be set to the defined standards to meet the needs of the application. Vaults shall be adequately spaced along the Fiber Infrastructure route to permit access by the City or third parties.

SECTION 3. COOPERATION WITH COMMUNITY ANCHOR INSTITUTIONS.

- (a) **Policy.** It is the express policy of the City to cooperate with Community Anchor Institutions, when feasible, in order to optimize opportunities to install and to use Fiber Infrastructure and fiber optic cables within the City for the benefit of the general public.
- (b) **Authorization.** The City Manager shall submit to the Governing Body for approval any proposed agreement between the City and any Community Anchor Institution relating to the installation or use of Fiber Infrastructure or fiber optic cables.

SECTION 4. LEASING SURPLUS DARK FIBER TO THE PRIVATE SECTOR.

- (a) **Policy.** It is the express policy of the City, in order to enhance internet services available to businesses and residents of the City, to provide opportunities for private entities to lease from the City, on a competitively-neutral basis, Surplus Dark Fiber.
- (b) **Authorization.** The City Manager shall submit to the Governing Body for approval any proposed lease agreement between the City and any private entity relating to the use of the City's Surplus Dark Fiber.
- (c) **Restrictions.** Any agreement between the City and a private entity for the use of the City's Surplus Dark Fiber shall be subject to the following restrictions:
 - (i) Any Surplus Dark Fiber leased by the City to private entities in accordance with this policy shall remain, at all times, the sole and exclusive property of the City.
 - (ii) Under this Policy, only Dark Fiber marked on the Surplus Dark Fiber Map shall be subject to lease to private entities. The Surplus Dark Fiber Map shall be maintained in the City Clerk's Office, shall be made available to the public for inspection, and shall be updated from time to time to reflect changes in the City's fiber optic network.
 - (iii) The standard lease agreement under this policy will be five (5) years and will offer two (2) additional five-year option terms.
 - (iv) Any private entity leasing Surplus Dark Fiber from the City shall agree to use the Surplus Dark Fiber to provide to businesses and residents of the City Symmetrical high-speed fiber-based internet service. Failure to use the Surplus Dark Fiber leased from the City within one year of the date of any Lease Agreement shall be a default of that Agreement and shall be grounds for termination of the Lease Agreement.

- (v) Connections to the City's Fiber Infrastructure by a private entity under this policy shall occur only at established Vaults, as approved in writing by the City, and under no circumstance shall a private entity have access to the City's fiber optic cables.
 - (vi) Surplus Dark Fiber leased under this Policy shall be leased in full segments between demarcation points, as determined by the City and agreed upon by the parties.
 - (vii) In order to ensure the continuity of City services and the health, safety, and welfare of the general public, only the City or a City-approved vendor shall have access to and perform work on the City's Fiber Infrastructure or its fiber optic cable network.
- (d) **Quarterly Fee.** The City shall recover the costs of leasing its Surplus Dark Fiber to private entities under this policy by charging, in the form of Rent, which shall be composed of a Quarterly Fee and a Quarterly Maintenance Fee. The Quarterly Fee shall be \$450.00 per strand of Dark Fiber, per mile, per quarter. The full length of each leased Dark Fiber strand segment -- regardless of how much is actually used by the private entity -- shall be used to calculate the Quarterly Fee.
 - (e) **Quarterly Maintenance Fee.** The Quarterly Maintenance Fee (which shall be paid as part of the Rent) shall be \$150.00 per mile of strands of Dark Fiber (regardless of the number of strands of Dark Fiber) per quarter to recover the City's maintenance and operating costs of leasing its Surplus Dark Fiber.
 - (f) **Standard Agreement.** The City's standard Lease Agreement, which is affixed hereto as Exhibit A, shall generally be used as a template for any Lease Agreement between the City and a private entity for use of the City's Surplus Dark Fiber.

SECTION 5. CITY-APPROVED VENDORS.

- (a) **List of City-Approved Vendors.** No person shall have access to or perform work on the City's Fiber Infrastructure or its fiber optic cable network unless such person is a City-approved vendor and is included on the City's list of City-approved vendors.
- (b) **Application; Qualifications.** In order to be included on the City's list of City-approved vendors, a person must file with the City Engineer or Fiber and Right of Way Manager a written application that includes the applicant's name, address, telephone number, and e-mail address, if any. In order for the application to be approved, the applicant must submit, in conjunction with the application, the following:
 - (i) Proof that the applicant is a Certified Fiber Optic Technician, Level I and Level II;
 - (ii) A sworn statement that the applicant has no less than five (5) years' experience splicing fiber optic cable; and

- (iii) No less than five (5) references, including names and contact information, for whom the applicant has performed and completed fiber optic cable work within the preceding five (5) years.
- (c) **Approval; Disapproval.** Within thirty (30) days of receipt of an application, the City Engineer, or designee, shall review the application. If the application is complete and the applicant meets all qualifications for approval, then the application shall be approved and the applicant shall be included on the City's list of City-approved vendors. If the application is incomplete or the applicant does not meet all qualifications for approval, then the application shall be disapproved. The City Engineer, or designee, shall send to the applicant Notice of Approval or Notice of Disapproval through the United States Postal Service or electronic mail.
- (d) **Retention on the List of City-Approved Vendors.** In order to be retained on the City's list of City-approved vendors, the applicant must maintain certification as a Certified Fiber Optic Technician, Level I and Level II. Once each calendar year, the City Engineer, or designee, shall review the City's List of City-approved vendors to ensure that all certificates are current. It shall be the obligation and responsibility of all City-approved Vendors to maintain the certification required by this policy and to transmit to the City proof of certification or recertification in a timely manner.
- (e) **Removal from the List of City-Approved Vendors.** The City Engineer, or designee, shall remove from the City's List of City-approved Vendors, (i) any person whose certification as a Certified Fiber Optic Technician, Level I and Level II, has expired, lapsed, or been revoked, (ii) any person who violates any provision of this Fiber Policy, or (iii) any person whose work on the City's Fiber Infrastructure or its fiber optic cable network falls below the minimum standards of the profession.
- (f) **Appeal.** Any person aggrieved by a decision of the City Engineer, or designee, shall have the right to file an appeal with the Director within fourteen (14) days of the date of the decision. Each Notice of Appeal shall be filed with the Director, shall be in writing, and shall explain in detail why the decision of the City Engineer, or designee, is erroneous. The Director shall hear the appeal and render a decision on the appeal as soon as practicable. The decision of the Director shall be the final decision of the City.

SECTION 6. FUND MANAGEMENT. Revenues generated from the lease of Surplus Dark Fiber shall be deposited in the City's General Fund. Expenditures associated with the lease of Surplus Dark Fiber, including but not limited to operational, maintenance, repair, capital, and administrative costs, may be paid by the City from the General Fund.

SECTION 7. REPEAL. City of Lawrence, Kan., Res. No. 7097 (Apr. 28, 2015) is hereby repealed in its entirety, it being the intent of the Governing Body that this Resolution supersede and replace it.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this 20th day of May, 2025.

APPROVED:



Mike Dever
Mayor

ATTEST:



Sherri Riedemann
City Clerk



APPROVED AS TO FORM AND LEGALITY:



Toni R. Wheeler
City Attorney