

Ordinance No. 583-2023

By Council Members Kazy, Hairston and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Director of Finance to enter into a development agreement with SiFi Networks Cleveland LLC, or its designee, successors and assignees, to install, operate, and maintain a citywide fiber optic network system in the City's public right-of-way, for a period of thirty years, with five ten-year automatic renewals.

WHEREAS, the City desires to enter into a development agreement to allow SiFi Networks Cleveland LLC, or its designee, successors, and assignees ("SiFi") to install, operate, and maintain a Citywide fiber optic network system in the City's public right-of-way; and

WHEREAS, the City has agreed to grant to SiFi access to and a non-exclusive license to use the public right-of-way for the purposes of this ordinance; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That notwithstanding and as an exception to any section of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Director of Finance is authorized to enter into a development agreement with SiFi for the installation of a Citywide fiber optic network system and related equipment and appurtenances in the City's public right-of-way (the "Agreement"), for a period of thirty years, with five ten-year automatic renewals. The Agreement, among other things, shall provide that the installation of the network underground by SiFi shall be consistent with all City regulations and shall be at no cost to the City.

Section 2. That the Agreement, **File No. 583-2023-A**, made a part of this ordinance as if fully rewritten, is approved in all respects and shall not be changed unless approved by the Director of Law.

Section 3. That in the event of a conflict between this legislation and the Agreement, this legislation shall control.

Section 4. That, notwithstanding Section 183.16 of the Codified Ordinances of Cleveland, Ohio, the Director of Capital Projects, or appropriate director, is authorized

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to enter into license agreements for shelters and cabinets, as described in the Agreement with SiFi, in order to implement the Agreement.

Section 5. That the term of the license agreements shall be coterminous with the term of the Agreement.

Section 6. That the license agreements shall be prepared by the Director of Law.

Section 7. That the consideration for the license agreements shall be established by the Board of Control.

Section 8. That the Directors of Capital Projects and the Director of Law, and other appropriate City officials, are authorized to execute any other documents and certificates, and take other actions as may be necessary or appropriate to effect the license agreements authorized by this ordinance.

Section 9. That the Director of Capital Projects is authorized to issue encroachment permits if necessary, revocable at the will of Council or the Director of Capital Projects, to SiFi to encroach into the public right-of-ways to implement the Agreement for a term coterminous with the Agreement.

Section 10. That the Director of Law shall prepare the encroachment permit(s) authorized by this ordinance and shall incorporate such additional provisions as the Director of Law determines necessary to protect and benefit the public interest. The permit(s) shall be issued only when, in the opinion of the Director of Law, SiFi has properly indemnified the City against any loss that may result from the encroachment(s) permitted.

Section 11. That SiFi may assign any permit authorized by this legislation only with the prior written consent of the Director of Capital Projects. That the encroaching structure(s) permitted by this ordinance shall conform to plans and specifications first approved by the Administrative Manager of the City's Division of Engineering and Construction. Apart from this legislation, SiFi shall separately obtain all other required

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permits, including but not limited to Building Permits and Street Opening/Obstruction permits, before installing the permitted encroachment(s).

Section 12. That permits authorized under this ordinance shall reserve to the City reasonable rights of entry to encroachment location(s).

Section 13. That the Agreement authorized by this ordinance shall be prepared by the Director of Law and approved and certified by the Director of Finance.

Section 14. That the Directors of Finance and Law, and such appropriate City officials, are authorized to execute any other documents or certificates and take any other action as may be necessary or appropriate to carry out the terms of the Agreement.

Section 15. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

DDR:nl
5-8-2023
FOR: Director Abonamah

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READ FIRST TIME on MAY 8, 2023
and referred to DIRECTORS of Finance, Law;
COMMITTEES on Utilities, Finance Diversity Equity and Inclusion

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

**PASSAGE RECOMMENDED BY
COMMITTEE ON
UTILITIES**

FILED WITH COMMITTEE

**PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE, DIVERSITY, EQUITY
and INCLUSION**

FILED WITH COMMITTEE
