



Legislative Department
Seattle City Council
Memorandum

Date: June 15, 2012

To: Councilmembers Bruce Harrell, Mike O'Brien, and Nick Licata
Public Safety, Civil Rights, and Technology Committee

From: Martha Lester, Council Central Staff

**Subject: June 20, 2012, Public Safety, Civil Rights, and Technology Committee Meeting:
C.B. 117487 – Excess Fiber Capacity Proposed Ordinance**

In February 2012, the Mayor submitted an initial version of proposed legislation to authorize the City's Chief Technology Officer (CTO) to enter into agreements allowing private parties to use the excess capacity of the City's fiber optic cable network for providing high-speed Internet services and other purposes. The Public Safety, Civil Rights, and Technology (PSCR&T) Committee was briefed on this proposal on March 21, 2012.

After revising the proposed legislation to clarify terminology, fix formatting, and clarify the budgeting approach in the proposal, the Mayor submitted revised proposed legislation to the Council on May 15, 2012. This proposed legislation was introduced on June 4 as C.B. 117487, and will be on the agenda of the June 20, 2012, PSCR&T Committee meeting for Briefing and Discussion.

This memo describes C.B. 117487 and identifies an amendment that Councilmembers may want to consider to require DoIT to report to the Council on activity pursuant to this ordinance.

Background

In the fall of 1993, the City Council approved a Statement of Legislative Intent directing the Executive to develop policies governing joint ownership, lease, or other shared use of fiber optic cable facilities. In response, the Executive proposed, and in 1995 the Council adopted, Resolution 29076. It established policies for sharing of fiber optic cable, and directed the Executive to develop a model agreement for cost-sharing of fiber optic installation projects between City departments and other governmental and public educational agencies and institutions.

The Executive responded, and in December 1995, the Council passed Ordinance 117981. This ordinance included "General Terms and Conditions" for fiber-sharing project agreements and authorized execution of agreements consistent with the General Terms and Conditions.

Since 1996, City departments and approximately 20 other government and public education agencies (the Fiber Partnership) have implemented over 300 fiber optic projects, investing \$17.7 million to install over 530 miles of fiber optic cable in the greater Seattle area. This fiber connects City facilities to one another; connects the City to the Internet; supports traffic signals, cameras, and digital signs; enables transit signal priority systems for Metro buses; delivers security and control information for the utilities; supports regional video conferencing capability for the Emergency Operations Center (EOC); and more.

DoIT has been the lead agency for almost all the fiber projects within the city limits. The Fiber Partners pay annual maintenance costs, mostly to City Light for pole attachment fees, conduit fees, and vault fees.

Proposed Legislation (C.B. 117487)

In recent years, City staff have explored various ways to improve broadband Internet service for businesses and residents in Seattle. This proposed legislation pursues one strategy – making excess capacity in the existing fiber optic cable network that has been built by the Fiber Partnership available for use by private parties.

DoIT staff have outlined their current thinking as to how the process might proceed if this legislation were passed. (Note that most of the details of this process are not specified in the legislation, but reflect DoIT’s current thinking.)

DoIT would advertise the availability of excess fiber and invite interested parties to submit fiber use requests. An interested party would submit a request indicating the desired route, intended purpose, and other information. DoIT would provide a cost estimate of the necessary engineering work to research the request, and the private party would need to pay this amount up front.

DoIT would then research the request, contacting other partners where necessary, and checking if there were multiple requests for a given segment. If excess fiber were available, DoIT would calculate the “use fee” (based on criteria stated in Section 4.B of the ordinance) and the “make ready” costs of the physical work to connect the private party to the fiber.

If there were more interest than could be accommodated by existing excess fiber, the amount of fiber could be increased by using electronics that convert a single fiber strand into multiple virtual fiber strands. The “make ready” cost for this option would be higher (to pay for the necessary electronics). This might be a step at which DoIT could give priority to private parties that, for example, help address the City’s Race and Social Justice Initiative (RSJI) goals – such parties could be allowed to use fiber with the lower “make ready” cost vs. allowing other, lower-priority parties to use virtual fiber with higher “make ready” cost.

If the private party decided to proceed, DoIT would make formal request to other members of the Fiber Partnership with an ownership interest in that segment of fiber. If they all agree, then DoIT would proceed to execute an agreement with the private party, collect the use fee, deduct an administrative fee to cover DoIT’s costs, and distribute fee proceeds to the affected partners based on proportional ownership of that segment of fiber.

DoIT currently manages the fiber program for the entire Partnership, and anticipates being able to take on the additional tasks related to new private party use using existing staff. Staff costs will initially be covered by a \$50,000 loan from the Information Technology Fund to a new Fiber Leasing Fund. Over several years, DoIT anticipates that revenue from private party use, including a 5% program management reserve amount collected by DoIT (deducted from the use fee proceeds distributed to the partners), will be sufficient to repay the loan, and the new Fiber Leasing Fund will become self-sufficient.

DoIT staff acknowledge that until they actually implement such a program, they won’t know how some of the details will work. Outstanding questions include:

- How much demand will there likely be? Might it exceed available capacity in some locations?
- Is the proposed maximum ten-year term for a private use agreement optimal?
- When the term of a private party agreement ends, will both the City and the private party likely want to renew it? (There is nothing in the proposed legislation about renewal.)

The following table summarizes the provisions of C.B. 117487.

Section	Summary of content
1	– Defines terms.
2	– Authorizes CTO to execute rental or license agreements with private parties for use of excess fiber.
3	– Authorizes CTO to incorporate another Fiber Partner’s fiber into rental or license agreements with private parties, and to share use fee with that Fiber Partner.
4	– Limits CTO’s authority: <ul style="list-style-type: none"> * term of any agreement for private use shall not exceed ten years, and CTO must notify Council in writing before entering into any agreement that exceeds five years; * CTO shall ensure consideration (fee) is based on specified factors; * agreements may be for any lawful purpose, but CTO shall give priority to users that will offer or improve high-speed Internet service to businesses and residents.
5	– Amends “General Terms and Conditions” for fiber-sharing project.
6	– Authorizes CTO to enter into fiber-sharing agreements consistent with “General Terms and Conditions” as amended.
7, 8, 9, 10	– Creates new Fiber Leasing Fund; specifies fund’s purpose, revenues, and administration.
11	– Adds new Budget Control Level for spending from new Fiber Leasing Fund.
12, 13, 14	– Authorizes loan of \$50,000 from Information Technology fund to new Fiber Leasing Fund: <ul style="list-style-type: none"> * to terminate by the end of 2015; and * to be repaid with revenues from private parties.
15	– Adds 2012 appropriation authority in new BCL of \$50,000.

Recommended Amendment

Given that this legislation proposes a new activity for the City, Councilmembers may want to receive annual reports, at least for several years, describing activities pursuant to this legislation.

The following amendment would direct the CTO to report annually for three years (2013 through 2015). At the end of that time, the Council could renew or modify any desired reporting requirement. In addition, the Council always has the option of asking the CTO to report at any other time – either in writing, or by inviting the CTO to make a presentation at a Council committee meeting.

Amendment: Add a new Section 16 to C.B. 117487 as follows (and renumber subsequent section):

Section 16. The CTO shall submit a written report to the City Council by the end of April each year from 2013 through 2015, reporting on activities under this ordinance through the end of the preceding calendar year. The report shall describe at least the following:

- a. private party interest in use of the fiber network;
- b. private party agreements executed or in progress;
- c. the location and purpose of each private party agreement;
- d. the extent to which private party agreements resulted (or will result) in improved high-speed fiber-based Internet service to surrounding businesses and/or residences;
- e. whether lower-income areas are served by private party agreements;
- f. revenue to the City from private party use fees;
- g. revenues to and expenditures from the Fiber Leasing Fund; and
- h. the status of any outstanding loan to the Fiber Leasing Fund.