

RESOLUTION NO. 129-2020

AUTHORIZES AT&T TO INSTALL COMMUNICATIONS LINES ON EXISTING POLES IN THE PUBLIC RIGHT-OF-WAY IN ORDER TO PROVIDE COMMUNICATIONS SERVICES TO THE PUBLIC.

Councilmember Leckstein introduced and offered for adoption the following Resolution; seconded by Councilmember Keeler:

WHEREAS, AT&T Corp., through its operating subsidiary Teleport Communications America, LLC (collectively, "AT&T"), is a communications carrier authorized to provide service by the New Jersey Board of Public Utilities (BPU) and the Federal Communications Commission (FCC); and

WHEREAS, AT&T, as a public utility and common carrier, has requested approval to install communications facilities in Sea Bright public right-of-way; and

WHEREAS, AT&T is seeking to lease or obtain access to poles with other utilities, particularly Verizon New Jersey Inc., per the attached Fact Sheet (Attachment "A") and Aerial Route diagram (Attachment "B") and Verizon has required that AT&T obtain approval of the Sea Bright Borough Council as a condition of such access;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that:

1. Permission and authority are hereby granted to AT&T to install communications facilities (consisting of fiber optic telecommunications cables, splice cases, mounting and attachment hardware, slack storage and other similar related equipment), or lease or obtain for such communications facilities space on existing poles, in the public right-of-way in Sea Bright in order to provide communications services to the public, and to operate, maintain and repair said facilities, subject to the following:

- A. The facilities shall be installed on to existing utility poles in the public right-of-way.
- B. AT&T, its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements for the use of the public right-of-way.
- C. AT&T, its successors and assigns, shall comply with all Federal, State, and Local laws requiring permits prior to beginning construction.
- D. Such permission be and is hereby given upon the condition and provision that AT&T, its successors and assigns, not only indemnify and save harmless the Borough of Sea Bright, its officers, agents, and servants, from any claims whatsoever arising from or in any way connected to the acts or omissions of AT&T in use of the public right-of-way but shall agree on behalf of the Borough to defend any action at law or equity which may be brought against the Borough upon such claims or from claims arising during the construction period, excluding in all instances claims arising out of gross negligence or willful misconduct on the part of the Borough.
- E. In addition to the aforesaid indemnity agreement, AT&T, its successors and assigns shall at its own cost and expense procure and keep at all times in full force and effect paid up policies for Comprehensive General Liability Insurance in favor of the Borough, in the amount of at least \$5,000,000, covering bodily injury and property damage arising out of any one accident. Proof of said coverage, naming the Borough as an insured and including the indemnification clause in Section D shall be filed with the Borough Clerk prior to the installation of any plant. The Borough shall have the right to increase the amount of Comprehensive General Liability Insurance and to alter the terms of insurance called for under this section provided it does so generally for all companies using the public right-of-way within the Borough. Said insurance shall not be subject to cancellation or change until thirty (30) days after the Borough Clerk has

received written notice thereof as evidenced by return receipt of certified or registered letter.

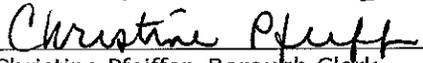
- F. Such permission be and is hereby given upon the further condition that in the use of the public right-of-way AT&T, its successors and assigns, shall become subject to any lawful Ordinance or Resolution now or hereafter adopted by the Borough.
- G. Such permission be and is hereby given upon the condition that AT&T shall obtain all applicable permits which may be required by the Borough.
- H. AT&T shall be responsible for the repair of damage to paving, existing utility lines, or any surface or subsurface installations, etc., arising from the construction, installation or maintenance of said plant.
- I. Notwithstanding any provision contained herein, neither the Borough nor AT&T shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this instrument.
- J. This instrument shall be adopted on behalf of the Borough by the Sea Bright Borough Council and attested to by the Borough Clerk who shall affix the Borough Seal thereto. Said execution, approval, and filing shall constitute the existence of public notification.
- K. The permission and authority hereby granted shall be for a period of 50 years. However, after 15 years from the date of this agreement, the Borough shall have the right to terminate permission and authority, by Resolution with a minimum one year notice to AT&T to sell or liquidate its facilities in the public right-of-way. Conversely, AT&T shall be allowed to terminate permission and authority, by request of Resolution with a minimum of one year from passage of such Resolution to sell or liquidate its facilities in the public right-of-way.
- L. Notwithstanding any provision herein to the contrary, if authority of Verizon to maintain poles or lines in the Borough terminates for any reason, the permission and authority granted herein to AT&T will also terminate.

Roll Call: Birdsall, Catalano, Keeler, Leckstein, Rooney, Schwartz
Yes Yes Yes Yes Yes Yes

June 16, 2020

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 16, 2020.


Christine Pfeiffer, Borough Clerk