

RESOLUTION NO. 2016-81

Resolution granting permission to AT&T Corp. to install communications facilities along, under and over the public right-of-way in order to provide communications services to the public.

WHEREAS, AT&T Corp., both itself and 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 and the Federal Communications Commission; and

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

WHEREAS, AT&T is seeking to lease or obtain conduit space and access to poles with other utilities, particularly Verizon New Jersey Inc., and Verizon has required that AT&T obtain approval of the Aberdeen Township Council as a condition of such access;

NOW THEREFORE BE IT RESOLVED BY THE ABERDEEN TOWNSHIP COUNCIL THAT:

1. Permission and authority are hereby granted to AT&T to install communications facilities, or lease or obtain for such communications facilities space on existing poles or in existing conduits, in the public right-of-way in Aberdeen 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 in underground conduit and/or 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 Aberdeen Township, 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 Township

to defend any action at law or equity which may be brought against the Township 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 Township.

- 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 Township, 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 Township as an insured and including the indemnification clause in Section D shall be filed with the Township Clerk prior to the installation of any plant. The Township 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 Township. Said insurance shall not be subject to cancellation or change until thirty (30) days after the Township 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 Township.
- G. Such permission be and is hereby given upon the condition that AT&T shall obtain all applicable permits and pay all lawful permit fees which may be required by the Township. In addition, upon presentation of invoices by the Township, AT&T shall reimburse the Township up to \$1500 for its engineering and legal review of AT&T's request.
- 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 Township 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 Township by the Aberdeen Township Council and attested to by the Township Clerk who shall affix the Township 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 25 years. However, after 15 years from the date of this agreement, the Township 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.

STATEMENT

This resolution authorizes AT&T to install communications lines within conduit or on existing poles in the public right-of-way in order to provide communications services to the public.