

Merchantville, NJ

November 23, 2009

A regular meeting of Borough Council was held at 7:30 PM, Monday, November 23, 2009. Mayor Frank M. North presided. Pledge of Allegiance and Silent Prayer were observed. Announcement was made that the meeting had been advertised in accordance with the regulations prescribed by the "Open Public Meetings Act".

ROLL CALL:

Council Present: Alloway, Brennan, Brunton, Waldron, Fields, Clerk Brouse, CFO Moules and Attorney Higgins.

PUBLIC: None**OLD BUSINESS:None****NEW BUSINESS**

Resolutions to be read and approved by consent agenda: On a motion of Mr. Brunton and second of Mrs. Fields, Council approved the following resolutions to be read and approved by consent agenda:

**R09-134
RESOLUTION OF THE BOROUGH OF MERCHANTVILLE,
COUNTY OF CAMDEN AND STATE OF NEW JERSEY
AUTHORIZING SUNESYS TO INSTALL, OPERATE AND
MAINTAIN FIBER OPTIC CABLE WITHIN THE BOROUGH OF
MERCHANTVILLE**

WHEREAS, Sunesys, Inc. is authorized to provide telecommunications and related services in the State of New Jersey; and

WHEREAS, pursuant to providing telecommunications and related services, Sunesys, Inc. desires to install, operate and maintain fiber optic cable within the corporate boundaries of the Borough of Merchantville; and

WHEREAS, Sunesys, Inc. proposes to locate new fiber optic cable within the Borough of Merchantville in accordance with the attached routing plan utilizing, existing utility poles, said poles being owned and maintained by PSE & G and/or Verizon; and

WHEREAS, the Borough Council of the Borough of Merchantville finds the installation of Sunesys fiber optic cable within the Borough to be in the public interest.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the Borough Council of the Borough of Merchantville as follows:

1. That Sunesys is hereby granted permission to install, operate and maintain its fiber optic cable within the Borough in accordance with the routing plan previously provided to the Borough for approval.
2. That the installation, operation and maintenance of Sunesys fiber optic cable shall not interfere with the safety or convenience of persons or vehicles traveling on public streets, highways or right-of-way within the Borough.
3. That Sunesys, shall at times, indemnify and hold harmless the Borough of Merchantville and its employees from any and all actions, claims, suits or demands or costs that may be made by any person or persons, company or corporation for or by reason of any injury including death or damage to any person or thing or property whatever resulting from or associated with the installation, operation, repair, or maintenance of the fiber optic cable, conduit or associated facilities.

4. That Sunesys shall be liable to the Borough of Merchantville for any and all damages caused and sustained by the Borough for and by reason of construction, installation, repair, operation and maintenance of the fiber optic cable, conduit, or associated facilities.

5. Pursuant to and as allowed for in N.J.S.A. 54:30A-124, Sunesys shall reimburse the Borough for the Borough's recurring costs and expenses in providing actual services to administer this agreement.

The parties hereto agree that a reasonable reimbursement shall be the sum of \$1,000 payable upon receipt of this Resolution by Sunesys, and, thereafter, an annual amount of \$100 per year due and payable on the first day of March of each and every year thereafter.

BE IT FURTHER RESOLVED, that should there be any deviation from either the routing or method of installation as presently proposed, Sunesys will notify the Borough of Merchantville and post a Performance Bond for the work, if said Bond is determined by the Borough to be required.

R09-135

Resolution OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AUTHORIZING AT & T TO INSTALL FIBER OPTIC CABLE ON POLES AND IN CONDUITS IN THE MUNICIPAL RIGHT OF WAY

Resolution granting permission to A T & T, to install telecommunications facilities along, under and over the public right-of-way.

WHEREAS, AT & T Corp., through its operating subsidiaries, including AT & Communications of New Jersey, L.P. TCG New Jersey, Inc. and Teleport Communications New York (collectively, "AT & T") is a telecommunications 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 telecommunications facilities in Merchantville rights-of-way; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE MERCHANTVILLE BOROUGH COUNCIL THAT:

1. Permission and authority are hereby granted to AT & T to install telecommunications facilities on utility poles or within underground conduits located in the public right-of-way in the Borough of Merchantville in order to provide telecommunications services to the public, and to operate, maintain and repair said facilities, subject to the following:
The facilities shall be installed in underground conduit and/or onto utility poles in the public right-of-way. 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 AT & T, its successors and assigns, shall comply with all Federal, State, and Local laws requiring permits prior to beginning construction.

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 Merchantville, its officers, agents and servants, from any claims 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.

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, as its interests may appear, in the amount of at least \$5,000,000, in any combination of primary and excess or umbrella coverages, covering bodily injury and property damage arising out of any one accident. Proof of said coverage, naming the Borough as an

additional insured shall be filed with the Borough Clerk prior to the installation of any plant. On prior notice to AT & T, 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 such change is implemented uniformly for all similarly situated carriers. AT & T shall endeavor to ensure that 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.

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.

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, and shall comply with, bear the expenses of, all applicable Borough requirements regarding traffic control and police supervision while any work in the public right of way is occurring.

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.

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 resolution.

The adoption of this resolution on behalf of the Borough by the Borough Council shall be attested to by the Borough Clerk who shall affix the Borough Seal thereto. Said actions shall constitute the existence of public notification.

The permission and authority hereby granted shall be for a period of fifteen (15) years. Such permission and authority shall be automatically extended for additional periods of five (5) years each; provided, however, that either party may cancel such permission and authority effective at the end of the currently effective term with a minimum of one (1) year's prior written notice to the other.

L. Pursuant to and as allowed for in N.J.S.A. 54:30A-124, AT & T shall reimburse the Borough for the Borough's recurring costs and expenses in providing actual services to administer this agreement. The parties hereto agree that a reasonable reimbursement shall be the sum of \$1,000 payable upon receipt of this Resolution by AT & T and, thereafter, an annual amount of \$100 per year due and payable on the first day of March of each and every year thereafter.

R09 - 141

RESOLUTION OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AUTHORIZING 2009 BUDGET TRANSFERS

WHEREAS, there are certain 2009 Budget Appropriations of the Borough of Merchantville with balances insufficient to meet requirements for operating Borough Affairs as indicated on the attached schedule; and

WHEREAS, there are 2009 Budget Appropriations with unexpended balances that are not needed for such purposes; and

WHEREAS, Revised Statutes 40A:4-59 provides for Transfers to those accounts having insufficient balances:

Budget Description	Account Number	Transfer Out	Transfer In
Electricity/Natural Gas	9-01-31-430-000	14,000.00	
UCC Third Party Inspections	9-01-22-725-253		4,000.00
Unemployment	9-01-23-734-000		10,000.00
	TOTAL	14,000.00	14,000.00

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Barrington that the following transfers are hereby approved as indicated on the above schedule.

RESOLUTION 09-142

**RESOLUTION OF THE BOROUGH COUNCIL OF THE
BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN,
NEW JERSEY CONFIRMING THE DETAILS OF THE SALE OF
THE BOROUGH'S GENERAL OBLIGATION BONDS, SERIES
2009A, AND GENERAL OBLIGATION BONDS, SERIES
2009B, TO THE NEW JERSEY ENVIRONMENTAL
INFRASTRUCTURE TRUST AND THE STATE OF NEW
JERSEY, ACTING BY AND THROUGH THE NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
PURSUANT TO THE 2009 NEW JERSEY ENVIRONMENTAL
INFRASTRUCTURE TRUST FINANCING PROGRAM
BACKGROUND**

WHEREAS, the Borough of Merchantville, County of Camden, New Jersey ("Borough") has determined there exists a need within the Borough for the rehabilitation of existing gravity sanitary sewer lines and manholes within the Borough's Sanitary Sewer System including, but not limited to, the cure in place pipe lining of gravity sewer lines and in-place repair of gravity sewer manholes ("2009 Project") as described in that certain Loan Agreement ("Trust Loan Agreement") to be entered into between the Borough and the New Jersey Environmental Infrastructure Trust ("Trust") and that certain Loan Agreement ("Fund Loan Agreement"; together with the Trust Loan Agreement, the "Loan Agreements") to be entered into between the Borough and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection ("State"), all pursuant to the 2009 New Jersey Environmental Infrastructure Trust Financing Program; and

WHEREAS, the Borough has determined to finance the acquisition, construction, renovation and installation of the 2009 Project with the proceeds of a loan to be made by each of the Trust ("Trust Loan") and the State ("Fund Loan"; together with the Trust Loan, the "Loans") pursuant to the Trust Loan Agreement and the Fund Loan Agreement, respectively; and

WHEREAS, to evidence the Loans, each of the Trust and the State require the Borough to authorize, execute and deliver its General Obligation Bonds, Series 2009A, to the Trust ("2009A Bonds"), and its General Obligation Bonds, Series 2009B, to the State ("2009B Bonds"; together with the 2009A Bonds, the "2009 Bonds"), pursuant to the terms of applicable law and pursuant to the terms of the Loan Agreements; and

WHEREAS, pursuant to the Local Bond Law, constituting Chapter 169 of the Laws of the State of New Jersey the Borough Council of the Borough has, pursuant to Bond Ordinance No. 2008-12, duly and finally adopted and published in accordance with the requirements of the Local Bond Law ("Bond Ordinance"), authorized the issuance of general obligation bonds or bond anticipation notes of the Borough to finance the costs of the 2009 Project; and

WHEREAS, pursuant to a resolution adopted by the Borough Council on September 14, 2009 ("Authorizing Resolution"), the Borough authorized and approved the issuance and sale of up to \$1,845,000 of the 2009 Bonds of the Borough, consisting of the Borough's 2009A Bonds, and the Borough's 2009B Bonds, to finance the costs of the 2009 Project; and

WHEREAS, *N.J.S.A. 40A:2-27(a)(2)*, allows for the sale of the 2009A Bonds and the 2009B Bonds to the Trust and the State, respectively, without any public offering, and *N.J.S.A. 58:11B-9(a)* allows for the sale of the 2009B Bonds to the Trust, without any public offering, all under the terms and conditions set forth herein; and

WHEREAS, the Trust has sold its bonds to fund the Trust Loan, thereby enabling the Borough to confirm the exact aggregate principal amount of and debt service schedule for each series of the 2009 Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN, NEW JERSEY, PURSUANT TO THE LOCAL BOND LAW (NOT LESS THAN TWO-THIRDS OF ALL THE MEMBERS THEREOF AFFIRMATIVELY CONCURRING), AS FOLLOWS:

Section 1. The sale of the 2009A Bonds to the Trust and the 2009B Bonds to the State is hereby authorized, approved, ratified and confirmed. The 2009A Bonds shall be released from escrow in accordance with the terms of the escrow agreement between the Trust, the State, the escrow agent and the Borough ("Escrow Agreement") and thereby issued in accordance with the principal amount, interest rates and maturity schedule set forth on Schedule "A" attached hereto and made a part hereof. The 2009B Bonds shall be released from escrow in accordance with the terms of the Escrow Agreement and thereby issued in accordance with the principal amount and maturity schedule set forth on Schedule "B" attached hereto and made a part hereof.

Section 2. All actions heretofore taken and documents prepared or executed by or on behalf of the Borough by the Mayor, Chief Financial Officer, Borough Clerk, other Borough officials or by the Borough's professional advisors, in connection with the issuance and sale of the 2009 Bonds or the 2009 Project are hereby ratified, confirmed, approved and adopted.

Section 3. The Mayor, Chief Financial Officer or Borough Clerk are each hereby authorized to determine all matters and execute all documents and instruments in connection with the 2009 Bonds or the 2009 Project not determined or otherwise directed to be executed by the Local Bond Law, the Bond Ordinance, or by this or any subsequent resolution, and the signature of the Mayor, Chief Financial Officer or Borough Clerk on such documents or instruments shall be conclusive as to such determinations.

Section 4. All resolutions, or parts thereof, inconsistent herewith or with the Authorizing Resolution, are hereby rescinded and repealed to the extent of any such inconsistency.

Section 5. This resolution shall take effect immediately upon adoption this 23rd day of November, 2009.

R09-143

RESOLUTION OF THE BOROUGH OF MERCHANTVILLE, COUNTY OF CAMDEN AND STATE OF NEW JERSEY AUTHORIZING THE REFUND OF HOMESTEAD REBATE OF TAX PAYMENTS

BE IT RESOLVED by the Borough Council of the Borough of Merchantville that warrants be drawn to the parties listed below in the designated amount representing a duplicate payment for fourth quarter of 2009 as follows:

<u>BLOCK/LOT</u>	<u>NAME & ADDRESS</u>	<u>AMOUNT</u>
55/2	James & Anne Jackson 131 N Centre St Merchantville NJ 08109	\$703.43
53/6	David Morgan & Lorendana Rubini 114 Leslie Ave Merchantville NJ 08109	\$1577.48

R09-145

**SHARED SERVICES AGREEMENT
BY AND BETWEEN
THE COUNTY OF CAMDEN
AND
MUNICIPALITY OF MERCHANTVILLE**

THIS DOCUMENT constitutes a Shared Services Agreement pursuant to N.J.S.A. 40A:65-1 et seq., entered into between the County of Camden, a body politic and corporate of the State of New Jersey with offices located at 520 Market Street, Camden, New Jersey 08102, (County), and the Borough of Merchantville, a body politic and corporate of the State of New Jersey with offices located at 1 West Maple Avenue, Merchantville. The date of execution of this Agreement is the 23rd day of November, 2009 .

WITNESSETH:

WHEREAS, the County of Camden seeks to provide for the efficient and effective removal of snow on County roads throughout the County of Camden; and

WHEREAS, the County recognizes that certain Camden County municipalities may be able to remove snow from designated County roadways within their respective municipalities at the earliest possible time, during the course of or immediately following a snow storm; and

WHEREAS, the Board of Chosen Freeholders of the County of Camden is desirous of entering into a Shared Services Agreement with the Municipality for the provision of snow removal from designated County roads in exchange for pro-rated allotments of road salt and/or calcium (hereinafter "materials"); and

WHEREAS, by resolutions adopted the Camden County Board of Chosen Freeholders , the proper County officials were authorized to execute an appropriate Agreement with the Municipality; now, therefore,

IN CONSIDERATION of the mutual promises set forth herein, the parties hereto agree as follows:

1. TERM

This agreement shall be for a period of one (1) year following its execution and shall be able to be terminated upon ten (10) days written notice by either party to the other.

2. DEFINITIONS

The term "winter storm" as used in this agreement shall refer to ice or snow accumulation on roadways in Camden County which:

1. Is the subject of a "winter storm" declared by the Director of the Camden County Department of Public Works and/or his designee, which results in the mobilization of salting or plowing procedures by the County on County Roads.

3. MUNICIPALITY'S RESPONSIBILITIES

The Municipality shall provide for municipal snow plowing, salting and sanding (hereinafter "maintenance"), curb to curb of County roads, during and immediately after each winter storm of the "2009-2010" storm season. Maintenance shall be for the duration of each winter storm and for the 24-hour period immediately after the end of precipitation (hereinafter "treatment period"). Maintenance shall be performed by the Municipality, on an as needed basis, at the request of and under the direction of the County's Department of Public Works or other agency responsible for storm operations. Additional maintenance shall be undertaken by the Municipality in accordance with the standards set for each winter storm by the County Department of Public Works as measured by the maintenance undertaken on County roads similar to those located within the Municipality, for which the County retains direct storm maintenance responsibility. The County Department of Public Works shall, facsimile or telephone, advise the Municipality of the need for additional maintenance services required of the Municipality on County roads, which are the subject of this agreement.

It is imperative that the municipality contact the Camden County Department of Public Works immediately upon maintenance obligations. Municipalities must contact the Camden County Department of Public Works at any time throughout the day or night by calling the County's 24-hour telephone system at (856) 566-2980.

In accordance with the County's reimbursement obligations (as outlined in # 4-County's Responsibilities), all municipalities that are due any reimbursement in the form of salt or calcium shall be responsible to collect all materials no later than June 30, 2010. Failure to collect reimbursement materials by June 30, 2010 shall result in forfeiture of the materials by the Municipality and there will be no other reimbursement made.

4. COUNTY'S RESPONSIBILITIES

For each winter storm, the County shall reimburse the Municipality in the form of salt or calcium (hereinafter "materials") valued at \$200.00 per linear mile of road surface maintained. The final determination on the type of material to be allotted shall be in the discretion of the County. Within 5 days following the 24 hour period after the end of each winter storm, the Municipality shall complete the form provided by the County, and identify all services rendered for reimbursement for each storm. Material reimbursements shall be based upon the per linear mile maintained during each treatment period applicable with each winter storm regardless of the number of times plowing, salting or sanding was undertaken during the treatment period. Material shall be available to the Municipality for pick up at one of the County's five (5) storage facilities, as per the designation of the Camden County Department of Public Works. The parties understand and agree that nothing in this agreement shall obligate the County to provide anything beyond that which is provided for in this agreement.

All municipalities may, upon written request to the Director of Public Works, access the County's weather service.

5. ADHERENCE TO LOCAL PUBLIC CONTRACTS LAW

In accordance with N.J.S.A. 40A:65-1 et seq., if any party performing a service on behalf of another party or parties to this agreement utilizes the services of a private contractor to perform all or most of such service, or all or most of a specific and separate segment of the services so contracted for, such party shall be required to award the agreement for the work to be performed by a private contractor under such agreement in accordance with the "Local Public Contracts Law" (N.J.S.A. 40 A: 11-1 et seq.).

6. AUDIT

Pursuant to the Single Audit Act of 1984, the Municipality agrees to permit the County and/or its agents to examine any and all records relevant to this agreement and shall make the same available upon demand at a reasonable time and place for the purpose of auditing the records, reports, and documents relative to this agreement.

7. RIGHT TO INSPECT

The Municipality shall permit the County or its authorized representative to make visits to the site or sites where the specified services are being provided for the purpose of assuring the Municipality's compliance with the terms of this agreement.

8. INDEMNIFICATION

The Municipality shall indemnify, hold harmless and defend the County, its employees, officers and agents, from and against all liability, claims, suits, losses, damages, costs and demands, on account of bodily injury, including death or property damage, arising out of or connected with the performance of the services under this agreement.

9. INSURANCE

The Municipality shall provide and maintain during the term of this agreement adequate insurance coverage for the services to be performed pursuant to this agreement. Said insurance shall include but not be limited to general liability and workers compensation insurance.

10. NOTICE

All notice hereunder shall be in writing and mailed, postage paid, certified mail, return receipt requested to the County by directing the same to the Director of Public Works, Charles J. DePalma Complex, Egg Harbor Road, Lindenwold, New Jersey 08021 and to the Municipality by directing the same to the Municipal Clerk.

11. MISCELLANEOUS

The following provisions shall apply to this agreement:

a. Construction of this Agreement

The parties acknowledge that this agreement was prepared under New Jersey Law and shall therefore be interpreted under the laws of that State.

b. Amendments

This agreement may not be amended, altered, or modified in any manner except in writing signed by the parties hereto.

c. Headings

This section any other headings contained in this agreement are for references only and shall not affect the meaning and interpretation of this contract.

d. Invalid Clause

The invalidity of any clause contained herein shall not render any other provision invalid and the balance of this agreement shall be binding upon all parties hereto.

e. Entire Agreement

This agreement shall consist of the entire agreement of the parties and it is acknowledged that there are no side or oral agreements relating to this undertaking set forth herein.

f. Assignability

This agreement and all rights, duties, and obligations contained herein may not be assigned without the County's prior written permission.

g. Affirmative Action

The affirmative action provisions set forth in the documents attached hereto are incorporated herein and made a part hereof.

h. Americans with Disabilities Act

The American with Disabilities Act provisions set forth in the documents attached hereto are incorporated herein and made a part hereof.

i. Funding

This agreement is subject to the availability and appropriation of sufficient funds in the year in which it is in effect.

j. Waiver

It is understood and agreed by the parties that a failure or delay in the enforcement of any of the provisions of this agreement by either of the parties shall not be construed as a waiver of those provisions.

k. Binding Agreement

This agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors or assigns.

IN WITNESS WHEREOF, the parties hereto have placed their signatures and appropriate seals on the date and year mentioned on the face of this agreement.

BE IT FURTHER RESOLVED THAT, all parties have advised that they would like to have a refund rather than applying this payment to subsequent property taxes.

Discussion-Leaf Collection-Consider every other week trash pick up? Bags given out by Boro? Keep the same system for trash but pick up leaves & trash? Possibly have two groups doing pick up. New Leaf Machine?? Pennsauken will not pick up from curbs this year. Can we rent the leaf machine from Pennsauken? Form sub committee to discuss options.

Announcements: Mayor read letter from Rob Andrews regarding 68th Anniversary of Pearl Harbor on Battleship (no cost)

Budget being held flat-Pers-Contracts-we need a small committee re budget cuts, etc. CFO Moules-COLA is not increasing. Need an ordinance to go up at all

PRIVATE SESSION: On the motion of Mr. Brennan and second of Mr. Brunton, council voted to adjourn to private session.

On the motion of Mr. Brunton and second of Mr. Brennan, council voted to return to public session.

ADJOURNMENT: On the motion of Mr. Alloway and second of Mr. Waldron, the meeting was adjourned at 8:08 PM.

DENISE BROUSE
BOROUGH CLERK