

RESOLUTION

WHEREAS, New York SMSA Limited Partnership d/b/a Verizon Wireless, (“Verizon Wireless”), is a provider of commercial mobile service subject to regulation by the Federal Communications Commission; and

WHEREAS, Verizon Wireless has entered into agreements with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which Verizon Wireless may use such poles erected within the public right-of-way in the Borough of Wharton; and

WHEREAS, New Jersey law permits such use provided that there is the consent of the relevant municipality;

NOW THEREFORE BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE OF NEW JERSEY THAT:

- 1. Permission and authority are hereby granted to Verizon Wireless and its successors and assigns, to use poles erected by parties that have the lawful right to maintain poles within the public right-of-way in the Borough of Wharton, subject to the following:**
 - A. Verizon Wireless, and its successors and assigns, shall adhere to all applicable Federal, State, and Local laws regarding safety requirements related to the use of the public right-of-way.**
 - B. Verizon Wireless, and its successors and assigns, shall comply with all applicable Federal, State, and Local laws requiring permits prior to beginning construction, and shall obtain any applicable permits that may be required by the Borough of Wharton.**
 - C. Such permission be and is hereby given upon the condition and provision that Verizon Wireless, and its successors and assigns, shall indemnify, defend and hold harmless the Borough of Wharton, its officers, agents, and servants, from any claim of liability or loss or bodily injury or property damage resulting from or arising out of the acts or omissions of Verizon Wireless or its agents in connection with the use and occupancy poles located within the public right-of-way, except to the extent resulting from the acts or omissions of the Borough of Wharton.**

- D. Verizon Wireless shall, at its own cost and expense, maintain commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. Verizon Wireless shall include the Borough of Wharton as an additional insured.**
- E. Verizon Wireless shall be responsible for the repair of any damage to paving, existing utility lines, or any surface or subsurface installations, arising from its construction, installation or maintenance of its facilities.**
- F. Notwithstanding any provision contained herein, neither the Borough of Wharton nor Verizon Wireless shall be liable to the other for consequential, incidental, exemplary, or punitive damages on account of any activity pursuant to this instrument.**
- G. This instrument shall be adopted on behalf of the Borough of Wharton by the Borough Council of the Borough of Wharton and attested to by the Borough of Wharton Clerk who shall affix the Borough of Wharton Seal thereto.**
- H. Location and aesthetics of equipment to be installed shall be subject to the approval of the Borough Administrator or his designee.**
- I. The permission and authority hereby granted shall continue for the same period of time as the grant to parties whose poles Verizon Wireless is using.**

STATEMENT

This resolution authorizes Verizon Wireless to use poles erected within the public right-of-way of the Borough of Wharton by parties that have the lawful right to maintain such poles.

Adopted: July 17, 2017

BOROUGH OF WHARTON

ATTEST:

**WILLIAM J. CHEGWIDDEN
MAYOR**

**Gabrielle Evangelista
Borough Clerk**