Resolution 2014-78

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING A MEETING WHICH EXCLUDES THE PUBLIC

BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that this body will hold a meeting on April 7, 2014 at 6:00 p.m. in the First Aid Building located at 168 Bank Street, Hightstown that will be limited only to consideration of an item or items with respect to which the public may be excluded pursuant to section 7b of the Open Public Meetings Act.

The general nature of the subject or subjects to be discussed:

Personnel – Police Administrative Assistant
Grievances
Information Technology Stipend

Contract Negotiations – Shared Services

Stated as precisely as presently possible the following is the time when and the circumstances under which the discussion conducted at said meeting can be disclosed to the public: July 7, 2014 or when the need for confidentiality no longer exists.

The public is excluded from said meeting, and further notice is dispensed with, all in accordance with sections 8 and 4a of the Open Public Meetings Act.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____
Debra L. Sopronyi
Borough Clerk

Resolution 2014-79

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AWARDING A CONTRACT FOR ZETA LYTE 2685 CH LINEAR CATIONIC EMULSION POLYMER WITH CROSS LINKED CATIONIC EMULSION FLOCCULANT – CUSTOM ENVIRONMENTAL TECHNOLOGY, INC.

WHEREAS, two (2) bids were received on February 25, 2014 for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant "or Equal" for the Advanced Wastewater Treatment Plant (AWWTP) in Hightstown Borough; and

WHEREAS, the bid submitted by George S. Coyne Chemical Co., Inc. of Croydon, Pennsylvania was for the "equal" product that has been tested by the Superintendent of the AWWTP and the polymer was not adequate to be considered an equivalent; and

WHEREAS, Custom Environmental Technology, Inc. of Collegeville, Pennsylvania submitted a bid for the exact product specified; and

WHEREAS, the bids have been reviewed by the Borough Engineer and it is the Engineer's recommendation that a one year contract for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant be awarded to Custom Environmental Technology, Inc. of Collegeville, Pennsylvania at a per unit price of $11.37 per gallon with a total contract price of $67,809.00; and

WHEREAS, said contract shall be effective April 7, 2014; and

WHEREAS, the Borough Attorney has reviewed the bid and determined that the bid submitted by Custom Environmental Technology, Inc. is in order with respect to legal compliance; and

WHEREAS, funds will be made available in the 2014 budget for said expenditure;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the contract for Zeta Lyte 2685 CH Linear Cationic Emulsion Polymer with Cross Linked Cationic Emulsion Flocculant be awarded to Custom Environmental Technology, Inc. of Collegeville, Pennsylvania effective April 7, 2014.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____
Debra L. Sopronyi
Borough Clerk

Resolution 2014-80

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING PAYMENT OF BILLS

WHEREAS, certain bills are due and payable as per itemized claims listed on the following schedules, which are made a part of the minutes of this meeting as a supplemental record;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the bills be paid on audit and approval of the Borough Administrator, the appropriate Department Head and the Treasurer in the amount of $894,432.99 from the following accounts:

Current	$828,665.22
W/S Operating	51,197.34
General Capital	3,191.50
Water/Sewer Capital	3,764.63
Grant	650.00
Trust	2,955.01
Housing Trust	0.00
Animal Control	366.00
Law Enforcement Trust	0.00
Housing Rehab Loans	0.00
Unemployment Trust	0.00
Escrow	3,643.29
Total	$894,432.99

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____
Debra L. Sopronyi
Borough Clerk

Resolution 2014-81

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING A MUTUAL AID AGREEMENT WITH EWING TOWNSHIP FOR MUTUAL AID FIRE PROTECTION SERVICES

WHEREAS, the Borough Council agrees with Ewing Township that situations may arise when additional fire protection services may be needed by the Borough, Township and neighboring municipalities; and

WHEREAS, in past years such agreement to provide Mutual Aid has always been verbal and understood; and

WHEREAS, Ewing Township is requesting that said Mutual Aid for fire protection services be confirmed by written agreement; and

WHEREAS, the Borough Attorney and Hightstown Engine Company #1 Fire Chief have reviewed the Mutual Aid agreement as presented by Ewing Township and find the agreement acceptable to the Borough; and

WHEREAS, pursuant to N.J.A.C. 5:75A-2.2, Hightstown Borough is desirous of entering into a Mutual Aid agreement with Ewing Township for fire protection services.

BE IT RESOLVED by the Hightstown Borough Council that the Mayor and Clerk are hereby authorized to execute the necessary documents to effectuate a Mutual Aid agreement with Ewing Township for fire protection services.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____

Debra L. Sopronyi
Borough Clerk

Resolution 2014-82

Borough of Hightstown
County of Mercer
State of New Jersey

PROVIDING THE CONSENT OF THE BOROUGH OF HIGHTSTOWN TO A SETTLEMENT OF THE LITIGATION MATTER KNOWN AS "ROBERT THIBAULT vs. BOROUGH OF HIGHTSTOWN, et als."

WHEREAS, there is currently pending before the Superior Court of New Jersey, Law Division, Mercer County, certain litigation known as "Robert Thibault vs. Borough of Hightstown, Borough of Hightstown Police Department and Detective Benjamin Miller," bearing Docket No. MER-L-2039-11; and

WHEREAS, the interests of the Borough of Hightstown and the Hightstown Borough Police Department (collectively, the "Borough Defendants") are being represented through the Mid-Jersey Joint Insurance Fund (the "JIF"); and,

WHEREAS, following the completion of discovery, and pursuant to settlement discussions which have occurred with legal representatives of Robert Thibault (the "Plaintiff"), the JIF has determined that it would be in the best interests of the JIF, as well as that of the Borough Defendants, to settle this matter; and

WHEREAS, pursuant to the proposed settlement, the Plaintiff shall be paid the sum of Two Hundred Thousand ($200,000.00) Dollars, with the Borough contributing a portion of that sum in accordance with the By-Laws of the JIF and the terms and conditions of the Borough's policy with the JIF; and

WHEREAS, the terms and conditions of the proposed settlement were presented in more detail to the Hightstown Borough Council on March 17, 2014 by the attorney appointed by the JIF to represent the interests of the Borough Defendants (Gregory J. Sullivan, Esq. of the firm of Hartsough Kenny Chase & Sullivan); and

WHEREAS, the proposed settlement does not constitute an admission of any liability whatsoever by the Borough Defendants, and is being considered solely in order to avoid future uncertainty and further expense which may be associated with litigating this matter to conclusion; and

WHEREAS, the proposed settlement incorporates a release of any and all claims by the Plaintiff against the Borough Defendants and provides for the execution of a Stipulation of Dismissal With Prejudice by the parties (see attached documents, which are incorporated herein by reference); and

WHEREAS, the Borough Council believes that it is in the best interests of the Borough to resolve this case in accordance with the terms and conditions set forth above, as presented by the JIF.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Hightstown that it hereby provides its consent to the settlement of the above litigation matter by the JIF in accordance with the terms and conditions set forth above and in the attached documents.

BE IT FURTHER RESOLVED, that the appropriate Borough representatives be and are hereby authorized to sign any and all documents necessary to effectuate this settlement, so long as said documents are in a form satisfactory to the Borough's Attorneys.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided to following individuals:

(a) George Lang, Chief Financial Officer
(d) Frederick C. Raffetto, Esquire, Borough Attorney

(e) Gregory J. Sullivan, Esquire

CERTIFICATION

I hereby certify the foregoing to be true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____

Debra L. Sopronyi
Borough Clerk

Resolution 2014-83

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS
PRIOR TO ADOPTION OF THE 2014 BUDGET

WHEREAS, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2014 temporary budget; and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of emergency appropriations for the purposes above mentioned; and

WHEREAS, it is the desire of the Mayor and Council to create emergency temporary appropriations as set forth on Schedule "A," attached; and

WHEREAS, the total emergency temporary appropriations in resolutions adopted in the year 2014 pursuant to the provisions of N.J.S.A. 40A:4-20 (Chapter 96, P.L. 1951, as amended), including this resolution, total:

	THIS RESOLUTION	***PREVIOUS TOTAL***	***CUMULATIVE TOTAL***
Current	400,570.00	577,707.00	**978,277.00**
Capital Outlay – Current	0.00	0.00	**0.00**
Debt Service - Current	0.00	0.00	**0.00**
Water/Sewer	115,413.00	290,000.00	**405,413.00**
Capital Outlay – W/S	0.00	0.00	**0.00**
Debt Service - W/S	0.00	0.00	**0.00**
TOTAL	**515,983.00**	867,707.00	**1,383,690.00**

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Hightstown (not less than two-thirds of all the members of thereof affirmatively concurring) that, in accordance with N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation is hereby made for each item listed on the schedules that are attached hereto and made a part hereof;
2. Each emergency appropriation listed will be provided for in the 2014 budget under the same title as written herein;
3. One certified copy of this resolution will be filed with the Director of Local Government Services, and a copy provided to the Treasurer.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____
Debra L. Sopronyi
Borough Clerk

Emergency Temporary Appropriation 4-7-14

Current Fund

Fire Department	Other Expenses	3,000.00
Uniform Fire Safety Act	Other Expenses	3,000.00
First Aid Organization	Other Expenses	5,000.00
Buildings and Grounds	Other Expenses	10,000.00
Gasoline	Other Expenses	5,000.00
Social Security	Other Expenses	6,000.00
Public Employee's Retirement System	Other Expenses	121,481.00
Police and Firemen's' Retirement System	Other Expenses	247,089.00
Subtotal Current Fund		400,570.00

Water Sewer Utility Fund

Other Expenses	50,000.00
Public Employee's Retirement System	65,413.00
Subtotal Water Sewer Utility Fund	115,413.00
Total	515,983.00

Resolution 2014-XXX

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING EMERGENCY TEMPORARY APPROPRIATIONS
PRIOR TO ADOPTION OF THE 2014 BUDGET

WHEREAS, an emergent condition has arisen with respect to inadequate appropriation balances remaining in some line items of the 2014 temporary budget; and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of emergency appropriations for the purposes above mentioned; and

WHEREAS, it is the desire of the Mayor and Council to create emergency temporary appropriations as set forth on Schedule "A," attached; and

WHEREAS, the total emergency temporary appropriations in resolutions adopted in the year 2014 pursuant to the provisions of N.J.S.A. 40A:4-20 (Chapter 96, P.L. 1951, as amended), including this resolution, total:

	THIS RESOLUTION	***PREVIOUS TOTAL***	***CUMULATIVE TOTAL***
Current	0.00	978,277.00	**0.00**
Capital Outlay – Current	0.00	0.00	**0.00**
Debt Service - Current	0.00	0.00	**0.00**
Water/Sewer	0.00	405,413.00	**0.00**
Capital Outlay – W/S	0.00	0.00	**0.00**
Debt Service - W/S	0.00	0.00	**0.00**
TOTAL	**0.00**	1,383,690.00	**0.00**

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Hightstown (not less than two-thirds of all the members of thereof affirmatively concurring) that, in accordance with N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation is hereby made for each item listed on the schedules that are attached hereto and made a part hereof;
2. Each emergency appropriation listed will be provided for in the 2014 budget under the same title as written herein;
3. One certified copy of this resolution will be filed with the Director of Local Government Services, and a copy provided to the Treasurer.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 21, 2014.

_____
Debra L. Sopronyi
Borough Clerk

Resolution 2014-84

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

MUNICIPAL SUPPORT FOR RESPONSIBLE PET OWNERSHIP PROGRAMS IN THE COMMUNITY

WHEREAS, Hightstown Borough recognizes that cats and dogs are an integral and valuable part of all communities, and contribute to the well-being of humans, whether as companions, service animals, or therapy pets; and

WHEREAS, Hightstown Borough understands that municipalities have an important role in ensuring the well-being of animals while balancing the needs of pet owners and non-pet owners; and

WHEREAS, legislators and municipal officials report that the number of calls from citizens about animal related issues rival any other issue(s); and

WHEREAS, there are approximately 2.2 million owned dogs and 2.5 million owned cats in New Jersey; and

WHEREAS, New Jersey was the first state in the nation to develop an innovative state-wide spay/neuter program and all proceeds from the sale of Animal Friendly License Plates are used to reimburse participating veterinarians for spaying and neutering surgeries; and

WHEREAS, State responsibility for promoting responsible pet care and ensuring that pets do not suffer due to abuse, neglect, or lack of proper care in kennels, pet shops, shelters, and pounds (animal facilities) is vested in the Office of Animal Welfare within the New Jersey Department of Health and Senior Services; and

WHEREAS, The New Jersey Society to Prevent Cruelty to Animals (NJSPCA) and municipal Animal Cruelty Investigators (ACIs) are responsible for investigating and acting as officers for the detection, apprehension, and arrest of offenders against the animal cruelty laws; and

WHEREAS, New Jersey mandates training requirements for animal control officers and Animal Cruelty Investigators; and

WHEREAS, New Jersey impounds over I00,000 animals per year in animal shelters and impoundment facilities; and

WHEREAS, approximately 37% of the animals that enter New Jersey's impoundment facilities are euthanized, at a rate of around 3000 every month; and

WHEREAS, free-roaming unvaccinated cats and dogs present a potential health threat to humans through the spread of such zoonotic diseases as rabies, leptospirosis, toxoplasmosis, roundworms, animal bites, and environmental contamination from animal feces; and

WHEREAS, stray and unwanted pets place an enormous financial burden on municipalities and non-profit humane agencies organized to care for these animals; and

WHEREAS, it is more humane and cost-effective to reduce the number of unwanted animals than

it is to impound and euthanize unwanted or unclaimed dogs and cats; and

WHEREAS, all dogs are required to be licensed in the municipality where they are housed and the Majority of municipalities also require licensure of cats. (Current shot against rabies is a pre-requisite to licensure); and

WHEREAS, all municipalities are required to canvass their residents to locate unlicensed dogs.

NOW, THEREFORE BE IT RESOLVED by the Borough Council the Borough of Hightstown, to take the following steps with regard to our municipal responsibilities with the intent of making the Borough of Hightstown a truly sustainable community.

It is our intent to do our utmost, within the bounds of our jurisdiction, to ensure that companion animals are treated humanely, respectfully, and responsibly through public education and through exercise of powers vested within New Jersey municipalities as follows:

Authority of municipalities:

Pursuant to New Jersey Statutes, all municipalities must appoint a certified animal control officer who shall be responsible for animal control within the jurisdiction of the municipality, including providing emergency veterinary care for injured stray animals and coverage outside of normal working homes; The municipality in which an animal facility is located is responsible for issuing the license for that facility to operate; and

The NJ Vicious Dog Law establishes a state-wide standard for municipalities to effectively address situations of vicious or potentially dangerous dogs, regardless of breed; and

The Animal Population Control Program provides for low-cost spaying and neutering for pet owners adopting dogs and cats from New Jersey shelters, pounds, and animal adoption referral agencies and pet owner's participating in one of several Public Assistance Programs.

The Municipality pledges to:

- Enforce all animal and rabies control statutes and regulations, including the requirement to pick up and impound all stray dogs and cats, excepting stray and feral cats in managed TNR programs.

- Work to improve the enforcement of animal cruelty statutes.

- Educate our community, including school children, about their responsibilities towards the pet animals they chose to keep.

- Institute, as appropriate, cat licensing ordinances and increase the percentage of licensed dogs and cats through ease of licensing and licensing enforcement measures.

- Identify and work to implement best practices to prevent unwanted breeding through effective animal control, availability of low-cost pet spaying and neutering services, public education, and pet-friendly rental and senior housing.

- Identify alternatives to euthanasia of adoptable companion animals, including utilizing foster homes, adoption networks and providing remedial behavior training services to existing and future owners.

- Assist in identifying resources to improve the conditions and increase the capacity of animal shelters

and impoundment facilities and animal control services.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____

Debra L. Sopronyi
Borough Clerk

Resolution 2014-85

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

GRANTING PERMISSION TO SUNESYS, LLC TO INSTALL COMMUNICATIONS FACILITIES ALONG, UNDER AND OVER THE PUBLIC RIGHT-OF-WAY IN ORDER TO PROVIDE COMMUNICATIONS TO THE PUBLIC

WHEREAS, the purpose of this resolution is to authorize Sunesys, LLC 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.

WHEREAS, Sunesys, LLC intends to install its facilities on or in existing telephone, electric or cable conduit and poles in the public Rights-of-Way through agreement with other utility companies or to construct underground conduit space where necessary; and

WHEREAS, the new facilities of Sunesys, LLC may require certain modifications, reallocations, adjustments and additions due to future work by the Municipality; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that:

1. The Use Agreement shall be effective as of the Effective Date and shall extend for an initial term of twenty(20) years commencing on the Effective Date, unless it is earlier terminated by either party in accordance with the provisions herein. Upon the expiration of the initial term or a prior extension term, this Use Agreement shall automatically be extended for up to three (3) additional terms of ten (10) years each upon the terms and conditions set forth herein, unless either party hereto shall give written notice to the other party of its intent not to renew this Use Agreement at least twelve (12) months prior to the expiration of the initial term or then effective extension term.

2. Any and all rights expressly granted to Sunesys under the Use Agreement, which shall be exercised at Sunesys' sole cost and expense, shall be subject to the prior and continuing right of the Municipality under the applicable Laws to use any and all parts of the Municipal Rights-of-Way exclusively or concurrently with any other Person or Persons and shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the Municipal Rights-of-Way. Nothing in this Use Agreement shall be deemed to grant, convey, create, or vest in Sunesys a real property interest in land, including any fee, leasehold interest, or easement. Any work performed pursuant to the rights granted under this Use Agreement must be subject to prior review and approval by the Municipality in accordance with all applicable existing laws.

3. Subject to obtaining the permission of the owner(s) of the affected property, on notice to the Municipality, the Municipality hereby authorizes and permits Sunesys to enter upon the Municipal Rights-of-Way and to attach, install, operate, remove, relocate, repair, and/or maintain the facilities of Sunesys as long as the facilities do not unreasonably impair any future improvements or interfere with the intended use of the Municipal Rights-of-Way.

    a. Sunesys, in the performance and exercise of its rights and obligations under the Use Agreement shall not interfere in any manner with the existence and operation of any and all public and private Rights-of-Way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electrical and telephone wires, electroliers, cable television, and other telecommunications, utility, or municipal property, without the express written approval of the

owner or owners of the affected property or properties, except as permitted by applicable Law of the Use Agreement.

b. Sunesys agrees to comply with all applicable laws and regulations in the exercise and performance of its rights and obligations under the Use Agreement.

c. If the attachment, installation, operation, maintenance, or location of Sunesys' Facilities in the Municipal Rights-of-Way shall require any permits, Sunesys shall, if required under applicable Municipal ordinances, apply the appropriate permits and pay any permit fees.

d. "As-Built Drawings" shall be furnished by Sunesys upon completion of installation, showing exact locations of Sunesys' Facilities in the Municipal Rights-of-Way.

e. In payment for the estimated time, review analysis, and other cost and services rendered by the Municipality in connection with its management of the public rights-of-way, as authorized by N.J.S.A.54:30A-124, Sunesys agrees to pay the following:

   i. $,1500.00 for submission of initial occupancy application as required by the Municipality's Engineer or Attorney.

   ii. $1,500.00 for submission of any subsequent modified or expanded occupancy application as required by the Municipality's Engineer or Attorney.

4. Sunesys, by execution of the Use Agreement, certifies its willingness to cooperate with the Municipality and its agents for the proper coordination of all work in connection with any planned or future Municipal improvements. Sunesys' Facilities shall be relocated, adjusted, or supported as required for any future improvements constructed on behalf of the Municipality in the Municipal Rights-of-Way by Sunesys as no cost to the Municipality. If Sunesys fails to relocate its facilities requested by the Municipality in a reasonable time under the circumstances, the Municipality shall be entitled to relocate Sunesys' Facilities at Sunesys' sole cost and expense, without further notice to Sunesys.

5. Whenever the installation, removal, repair, or relocation of Sunesys' Facilities is required or permitted under the Use Agreement, and such installation, removal, repair, or relocation shall cause the Municipal Rights-of-Way to be damaged, Sunesys, at its sole cost and expense, shall promptly repair and return the Municipal Rights-of-Way to a condition as good or better than prior to the work.

6. Each party shall indemnify and hold harmless the other party, its officers, directors, employees and agents, and its successors and assigns from and against any claims, liabilities, losses, damages, fines, penalties, and costs (including reasonable attorneys fees), whether foreseen or unforeseen, which the indemnified parties suffer or incur because of: (i) any Hazardous Discharge resulting from acts or omissions of the indemnifying party or its predecessor in interest; (ii) acts or omissions of the indemnifying party, its agents or representatives in connection with any cleanup required by law or (iii) failure of indemnifying party to comply with environmental, safety and health laws.

7. Except for death or bodily harm to any person and tangible property damage as provided above, in no event shall either party be liable to the other party for any special, consequential or indirect damages (including by way of illustration, lost revenues and lost profits) arising out of the Use Agreement or any obligation arising there under, whether in action for or arising out of breach of contract, tort or otherwise.

8. The Municipality shall be liable only for the cost of repairs of damages to Sunesys' Facilities arising from the negligence or willful misconduct of the Municipality, its agents, or employees.

9. Notwithstanding anything to the contrary in the Use Agreement, each party shall ensure that any and all activities it performs pursuant to the Use Agreement shall comply with all applicable federal, state, and local laws and regulations. Without limiting the generality of the foregoing, each party shall comply with all applicable provisions of i) workmen's compensation laws, ii) unemployment compensation laws, iii) the Federal Social Security Law, iv) the Fair Labor Standards Act, and v) all laws, regulations, rules, guidelines, policies, orders, permits, and approvals of any governmental authority relating to environmental matters and/or occupational safety.

10. Sunesys shall both obtain and maintain insurance issued by one or more reputable insurance carriers licensed to insure property in New Jersey and shall be rated at least A:X in A.M. Best and Company's Insurance Guide, which protects the Parties and each of them from and against all claims, demands, causes of action, judgments, costs, including attorneys' fees, expenses and liabilities of insurable kind and nature which may arise or result directly or indirectly from or by reason of such loss, injury or damage that in any way arises from or is related to the Use Agreement or activities undertaken pursuant to the Use Agreement.

11. Prior to commencement of any work pursuant to the Use Agreement, Sunesys shall file with the Municipality the required original certificates of insurance with endorsements, not less than ten (10) days before any work is commenced and renewals not less than ten (10) days before expiration date of the certificate. The insurance certificate shall clearly state all of the following:

    a. The policy number; name of insurance company; name and address of agent or authorized representative; name, address, and telephone number of insured; project name and address; policy expiration date; and specific coverage amounts.

    b. The Municipality shall receive notice prior to cancellation in accordance with policy provisions.

    c. That Sunesys insurance is primary as respects any other valid or collectible insurance that the Municipality may possess, including any self-insured retentions the Municipality may have; and any other insurance the Municipality does possess shall be considered excess insurance only and shall not be required to contribute with this insurance.

12. Sunesys shall obtain and maintain at all times during the term of the Use Agreement statutory workers' compensation and employer's liability insurance in the amount of Five Hundred Thousand Dollars ($500,000.00) and shall furnish the Municipality with a certificate showing proof of such coverage.

13. Any deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the Municipality. "Cross Liability", "severability of interest", or "separation of insured" clauses shall be made a part of the commercial general liability and commercial automobile liability policies.

14. Except for payment of the license fee and other amounts, neither party shall have any liability for its delays or its failure of performance due to: fire, explosion, pest damage, power failures, strikes or labor disputes, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, or other causes beyond its control, whether or not similar to the foregoing.

15. Either party may terminate the Use Agreement upon forty-five (45) days prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within the forty-five (45) day of receipt of written notice of default (or, if such default is not curable within forty-five (45) days, if the defaulting party fails to commence such cure within forty-five (45) days thereafter diligently to prosecute such cure to completion), provided that the grace period for any monetary default shall be ten (10) days from receipt of notice. Except as expressly provided herein, the rights granted under this Use Agreement are irrevocable during the term of this Use Agreement.

16. The Use Agreement shall not be assigned by Sunesys without the express written consent of the Municipality, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the forgoing, the transfer of the rights and obligations of Sunesys hereunder to a parent, subsidiary, successor, or financially viable affiliate shall not be deemed as an assignment for the purposes of this Use Agreement.

17. Sunesys understands that the Use Agreement does not provide Sunesys the exclusive use of the Municipal Rights-of-Way and that the Municipality has the right to permit other telecommunication service providers to install equipment or devices in Municipal Rights-of-Way.

18. The Use Agreement may not be amended except pursuant to a written instrument signed by both parties.

19. If any one or more of the Provisions of the Use Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such Provision(s) shall be deemed severable

from the remaining Provisions of the Use Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Use Agreement.

20. The Use Agreement shall be governed and construed by and in accordance with the laws of the State of New Jersey, without reference to its conflict of law principles. If suit is brought by a party to the Use Agreement, the parties agree that trial of such shall be vested exclusively in the state courts of New Jersey in the county in which the Municipality is located, or the United States District Court for the District of New Jersey.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____

Debra L. Sopronyi
Borough Clerk

Resolution 2014-86

BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY

AUTHORIZING THE ISSUANCE OF AN AUCTION LICENSE – EMPIRE ANTIQUES

WHEREAS, an application for a license to hold an auction on Saturday, May 3, 2014 at 278 Monmouth Street in the Borough of Hightstown has been submitted by Empire Antiques, together with the required fee; and

WHEREAS, the application has been reviewed and approved by the Police Director; and

WHEREAS, it is the desire of the Mayor and Council that a license be issued to Empire Antiques for this event.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Hightstown that the Borough Clerk is hereby authorized to issue a license to Empire Antiques for their auction to be held on Saturday, May 3, 2014 at 278 Monmouth Street.

CERTIFICATION

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council at a meeting held on April 7, 2014.

_____

Debra L. Sopronyi
Borough Clerk