

## **RESOLUTION TO PROTECT COUNTY ROADS**

BE IT RESOLVED by the Board of Chosen Freeholders of the County of Middlesex and State of New Jersey, as follows:

**SECTION 1.** That no person, firm, corporation, public utility, authority or municipality, shall hereafter, open or excavate any portion of the right-of-way of any road, highway, street or avenue in the County of Middlesex, owned, maintained or controlled by the County of Middlesex as a part of the County road system, for any purpose whatsoever without first making application for and receiving a permit thereof, signed in the name of the County of Middlesex by the County Road Supervisor, or one of his authorized agents. The construction of concrete curbs and/or gutters along streets or roads shall be considered as tearing up or opening of County Roads or streets and shall come under the provision of this resolution. The creating or widening of a driveway or for the construction of a driveway or street at its connection with a County road shall come within the provisions of this resolution.

**SECTION 2.** The written application shall state the name and address of the owner of the facility for whom the work is being done, the name and address of the contractor and/or subcontractor performing the work, number of the County road to be opened, the nature, location and purpose of the excavation, anticipated time of completion, a statement that the permittee will comply with all resolutions and laws related to the proposed work, and any other data as may be reasonably required by the County Road Supervisor. The application shall be accompanied by a reasonably accurate sketch plan in triplicate, showing the location, dimensions of the proposed opening. A separate permit shall be required for each and every opening. Both the owner and the contractor shall sign the permit application and shall be jointly and separately bound for all obligations of the permit and shall be referred to hereafter as permittees. A permit shall not be transferred except upon prior written consent of the County Road Supervisor.

The County will charge the residential permittee a minimum Fifty Dollar (\$50.00) inspection fee for each and every inspection. Utility Company and/or commercial permittees will be charged a minimum One Hundred Dollar (\$100.00) inspection fee for each and every inspection. Saturday/Sunday and/or Holiday inspections require previous approval from the County Road Supervisor - a minimum of \$200.00 or the inspector's accrued cost will be charged for each and every inspection. The County Engineer's and/or County Road Supervisor's decision on the extent of inspection charges to be levied shall be final in all cases.

No person to whom a permit has been issued shall disturb or move pavement other than that for which this permit provides for.

When deemed to be in the best interests of the County and in the sole discretion of the County Road Supervisor after consultation with the County Engineer, the permit to be issued may deny any open cut method and require directional boring or jacking method for installation of utilities across County roads, when it is determined that one (1) or more of the following benefits would be present:

1. The pavement would not be open cut.
2. The pavement integrity would be maintained.
3. Settlement concerns would be eliminated.
4. Vehicular traffic would be maintained along the County road while the work was on-going.
5. Traffic signals would not be affected.

**SECTION 3.** No permits will be issued for openings in excess of ten (10) square yards in area, except for emergency openings, requirements of law, or at the County Road Supervisor's discretion, during the period from the first day of December to the fifteenth day of March.

**SECTION 4.** A permit application fee of One Hundred Dollars (\$100.00) shall be charged by the County Road Supervisor for the issuance of each residential permit. A permit fee of Two Hundred Dollars (\$200.00) shall be charged by the County Road Supervisor for the issuance of each Utility Company

and/or commercial permit. Persons found excavating in County Right of Way without a permit **WILL BE REQUIRED TO CEASE WORK IMMEDIATELY** and shall be fined a minimum of Five Hundred Dollars (\$500.00) not to exceed a maximum of Two Thousand Dollars (\$2,000.00) and will be required to furnish a Four Hundred Dollar (\$400.00) application fee plus inspection fees as determined by the County Road Supervisor or his Designee, and any additional costs incurred by the County if this department is needed to make the necessary repairs.

If Contractor/Subcontractor/Developer fails to respond to after-hour calls for emergency repairs within their project limits, the County will impose a minimum fine of Two Thousand Dollars (\$2,000.00) plus expenses for each occurrence.

**SECTION 5.** A permittee/contractor and/or subcontractor shall furnish the County Road Supervisor with a Certificate of Insurance which indicates that he has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit, Comprehensive General Liability insurance, including X, C, & U coverage, which names the County of Middlesex as an additional insured and has limits of not less than \$1,000,000.00 for any one person, \$1,000,000.00 for any one accident and \$300,000.00 property damage duly issued by an insurance company authorized to do business in this State. The certificate holder shall be listed as the County of Middlesex, P.O. Box 7356, North Brunswick, New Jersey 08902 and shall include a 30-day notice of cancellation.

**SECTION 6.** All permit fees, including Public Utilities, Municipalities, their contractors or contractors of State or Federal agencies shall deposit with the Treasurer of the County of Middlesex in the form of a **Certified Check, Bank Draft, or Money Order** in an amount equal to \$10.00 per square yard of disturbance, for each and every opening made in any concrete or bituminous concrete pavement, and in the amount of \$8.00 per square yard of disturbance, for each and every opening made in other types of surfaces within County Right of Way, but in no case less than \$500.00, unless said deposits are specifically waived at the discretion of the County Road Supervisor. The deposits required herein shall be held in escrow by the County.

The accrued inspection fees for the project will be deducted from said deposits. Upon satisfactory completion of all work and upon receipt of all necessary approvals from the County Engineer and/or County Road Supervisor, and the Board of Chosen Freeholders; then the balance of the aforesaid deposit shall be returned to the permittee as provided for herein.

Permittees who are subject to the jurisdiction of the Middlesex County Planning Board, with the performance guarantee requirements in place as prescribed by the County Engineer, may be required to submit additional deposits with the Department of Highways for obtaining Road Opening Permits. However, should the County Road Supervisor, upon final inspection, determine that construction within County Right of Way was unsatisfactory and/or otherwise in violation of the approved plans and should the permittee, upon receipt of written notice of deficiencies fail to remedy the same in a reasonable amount of time, then the County Road Supervisor shall initiate the process to deduct from the permittee's performance guarantee, all expenses incurred by the Department of Highways in performing the necessary repairs to remediate same. Said costs to be based on current annual County contract rates, if such are in effect, or a schedule of costs maintained by the County based on rates in the contractor's blue book plus 15%.

Any reinspection performed as a result of unsatisfactory or incomplete work may require additional inspection fees in each instance.

The County Road Supervisor shall have the right to perform borings in the pavement, cut cores in the pavement or to perform other investigations as deemed necessary to confirm that the provisions of the Road Opening Permit have been satisfied. The cost of such investigations shall be deducted from the escrow amount calculated above if the work is found to be deficient. The County Engineer and/or County Road Supervisor at his sole discretion may require the permittee to enter into a maintenance bond with a surety company in the sum equal to 10% of the escrow amount, said bond and surety company to be

satisfactory to the Board and the bond shall be in place for a period of ONE (1) YEAR FROM THE DATE OF ACCEPTANCE OF SAID WORK BY THE BOARD and shall provide that the permittee guarantee the work in the manner required by the specifications.

The County Engineer and/or County Road Supervisor may require an extended maintenance period or an additional maintenance bond depending upon the nature of the work involved or the workmanship achieved during construction.

The escrow amount held by the County shall only be released when maintenance bonds as described above have been accepted by the Board of Chosen Freeholders.

Each bond filed pursuant to this Section shall be in a form satisfactory to the County Counsel. The bond shall be executed by the permittee as principle and surety company licensed to do business in the State of New Jersey as surety and shall be conditioned as follows:

(1) To indemnify and hold harmless the County of Middlesex for all loss, damage, claim or expense, including expenses incurred in defense of any litigation arising out of injury to any person or property resulting from any work done by the permittee under the permit.

(2) To indemnify the County of Middlesex for any expense incurred in enforcing any of the provisions of this section.

(3) To indemnify any person who shall sustain personal injuries or damage to his property as a result of any act or admission of the permittee, his agents, employees or subcontractors done in the surface and foundation of the road for which the permit is granted in the manner acceptable to the County Engineer and/or County Road Supervisor or their designee. The bond shall be conditioned upon the permittee restoring surface and foundation of the streets abutting the work site and those streets which had sustained damage through the use of construction equipment and by other construction vehicles which had been utilized for the transportation of material to and from the work site for which the permit is granted in a manner acceptable to the County Engineer and/or County Road Supervisor, or their designee.

**SECTION 7.** For utility main construction, other or additional regulations may be prescribed by the Board of Chosen Freeholders. Plans for such projects must have the approval of the County Engineer before a permit may be issued. Such approvals must be in writing with a copy provided to the County Road Supervisor.

**SECTION 8.** Prior to the start of any paving or repaving work by the Department of Highways on any County road, the County Road Supervisor shall mail a written notice thereof to each permittee of any sewer, main, conduit, or other utility in or under said County road or any real property, whether improved or unimproved, abutting said County road. Such notice shall notify such permittee that no excavation permit shall be issued for openings, cuts, or excavations in said County road for a period of five (5) years after the date of such resurfacing, except as provided for herein. Such notice shall also notify such permittee that applications for excavation permits, for work to be done prior to such paving or repaving, shall be submitted promptly in order that the work covered by the excavation permit may be completed not later than forty-five (45) days from the date of enactment of such notice. Notice of the proposed paving or repaving of any County road shall be published in any newspaper circulating in the area where the work is proposed to be done, notifying all property permittees that any excavation must be completed not later than forty-five (45) days from the date of the enactment of the County resolution authorizing the work or forty-five (45) days from the County Road Supervisor advising the Board of Chosen Freeholders of his intention to commence work on said roadways.

Within said forty-five (45) days, every public utility company receiving notice as prescribed herein shall perform such excavation work, subject to the provisions of this resolution, as may be necessary to install or repair sewers, mains, conduits, or other utility installations. In the event any permittee of real property

abutting said County road shall fail within said forty-five (45) days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such permittee or his successors in interest to make openings, cuts or excavations in said County road, shall be forfeited for a period of five (5) years from the date of enactment of said resolution. During said five-year period no excavation permit shall be issued to open, cut, or excavate in said County road unless, in the judgment of the County Engineer and/or County Road Supervisor, either an emergency as described in this resolution exists which makes it absolutely essential that the excavation permit be issued, or the permittee has demonstrated to the satisfaction of the County Engineer and/or County Road Supervisor, that it has investigated all other alternatives and that the issuance of an excavation permit is the only one which is feasible. Should an excavation permit be issued within said five (5) year period, then the permittee shall be required to pay a fee, in addition to any other applicable fees, based upon the following schedule:

- (a) if the permit is issued during the first year - \$1,000;
- (b) if the permit is issued during the second year - \$800;
- (c) if the permit is issued during the third year - \$600;
- (d) if the permit is issued during the fourth year - \$400;
- (e) if the permit is issued during the fifth year - \$200

A permittee obtaining such emergency permits shall observe any special backfill or other construction requirements requested by the County Engineer and/or County Road Supervisor. All emergency work performed in the absence of a County representative shall be subject to testing, if deemed necessary, to determine that conditions of said permit have been satisfied. All testing costs shall be charged to the permittee.

Permittees who are the owner/occupiers of one-family, two-family, three-family and four-family homes shall be exempted from the payment of the additional fee provided herein. The County Road Supervisor shall develop criteria which shall be utilized to evaluate whether the additional fee constitutes a financial hardship for permittees who are small businesses, as defined by the New Jersey Department of Commerce and Economic Development in N.J.A.C. 12A:10-2.1(b). Upon a showing that a small business permittee meets the established criteria, the County Road Supervisor shall have the authority to waive the additional fee.

**SECTION 9.** Wherever it is necessary to cross over, through or under existing bridges, culverts or storm sewers, plans must be filed with the County Engineer which will outline in detail the proposed method of crossing such structures. No work of any kind whatsoever shall be performed until the said supplemental plans have been approved by the County Engineer. Such approvals must be in writing with a copy provided to the County Road Supervisor.

Detailed plans of all construction proposed at waterways and bridges shall be submitted to the New Jersey Department of Environmental Protection and Energy, for approval when required; after which an approved copy shall be forwarded to the County Engineer for approval.

**SECTION 10.** If future installation of drainage or sewer facilities or the regrading and/or realignment and widening of pavements is prevented by the presence of the underground County structures covered by this permit, then the cost of making the necessary changes in said structures, so as to permit installation of the proposed drainage or sewer facilities or to permit regrading and/or realignment and widening of pavements, shall be borne by the permittee.

**SECTION 11 - Maintenance of a Modified Signal System (Intersection) and/or New Traffic Signal System (Intersection):** The contractor/ subcontractor/developer is responsible for routine and emergency maintenance and operation of the modified signals of the newly installed traffic signal system (intersection) until approval of installation by the New Jersey Department of Transportation or acceptance of the project by the Board of Chosen Freeholders. This includes, but is not limited to, the following items which are necessitated for the safe operation of the entire signalized intersection: poles, mast arms

pedestals, traffic signal heads and lamps, wire, overhead wiring, foundation, conduit, detectors, controllers and timing sequences, associated highway lighting units and electric services. The maintenance responsibility for existing signals shall be from the time the contractor/developer first alters the existing traffic signal, in any manner, until approval of installation by the State or acceptance of the project by the Board of Chosen Freeholders. Should the contractor's/subcontractor's/developer's forces cause any damage to any signal system, modified, existing, or newly installed as part of the contract or site plan/subdivision conditions of the County Planning Board, or should any portion of the signal system fail or malfunction for any reason, it shall be the contractor's/subcontractor's/ developer's responsibility to effect immediate repairs and return the signal to normal operation. The contractor/ subcontractor/developer shall also bear the risk of loss or damage to the signal system arising due to third person or persons, vehicular accidents, vandalism, or from any other cause until approval of installation by the State or acceptance of the project by the Board of Chosen Freeholders.

The contractor/subcontractor/developer shall promptly repair, replace, and make good any such damage or loss at no additional expense to the County. Work shall begin to repair the signal system within a maximum of two hours after the damage is caused or after the contractor/subcontractor/developer is notified of damage or a malfunction. Workmen assigned to such repair shall work continuously until the signal resumes normal operation.

In addition, if the contractor/subcontractor/ developer fails to respond to a failure or knockdown within two hours after notification, or does not begin work within the two-hour limit specified, or does not continue to work until the traffic signal is back into normal signal operation, in the interest of safety, the County may respond with its own forces to restore normal signal operation. If the County responds with its own forces to effect repair at the intersection(s), the Contractor/Subcontractor/Developer agrees to pay the County a sum of \$5,000 for costs of mobilizing its forces and equipment. In addition, the contractor/ subcontractor/developer shall pay the County its labor costs, actual cost of material used to effect the repair, and shall pay the actual cost of traffic protection to the agency providing the police, etc. Any such emergency work performed by County forces will not in any way diminish the Contractor/Subcontractor/Developers' liabilities as described hereunder.

Additional rights and/or remedies also exist under work which is covered totally under a Bond as required for a County Planning Board Approval.

All materials, labor, equipment, fees, energy costs and all else necessary for the contractor/ subcontractor/developer to maintain the signal in operation shall be at his own expense.

Prior to the start of installation or modification of the existing traffic signal, the Department of Highways & Bridges shall be given the names and telephone numbers of the person or persons to be contacted should a failure or damage occur. These persons shall be a licensed electrical contractor having a license to do business in the State of New Jersey and familiarity with traffic signal construction and operation. The developer/contractor/subcontractor agrees to be fully liable for the operation of the traffic signal for the term of the contract or release of bond by the County Planning Board until NJDOT's approval is granted or acceptance of the project by the Board of Chosen Freeholders and agrees to defend, indemnify and otherwise save harmless the governmental agency, its departments, bureaus, boards, officials, and employees from any and all claims, demands, suits, recoveries, judgements or actions at law, whether for personal injury, property damage or liabilities of any kind, including the cost of defense which arise from acts or omissions whether negligent or not of the contractor/developer, or his agents, employees, servants, subcontractors, material men or others working for the contractor/developer in the construction and/or maintenance of the traffic signal installation(s) at his own expense.

## **SECTION 12 - SITE PLAN RESOLUTION/ DEVELOPER AGREEMENT CONDITIONS**

### **MAINTENANCE/JURISDICTION**

Upon completion of construction and approval of installation by NJDOT or acceptance by the Board of Chosen Freeholders of the traffic signal system and equipment, the County, Municipality, and Developer, shall accept and retain jurisdiction of their respective portions of the roadway improvement and maintain them in a manner satisfactory to the County and State. The County shall be responsible for the operation and maintenance of the traffic signal installation in accordance with the County/Developer's agreement. This includes signing, striping, and above ground and under ground traffic signal equipment. All warranties and guarantees associated with items of work will be transferred to the County upon acceptance of maintenance and prior to release of guarantees or bonds. The electrical costs for the traffic signal and street lighting will be the responsibility of the Municipality/ Developer/Property Owner.

The MUNICIPALITY and DEVELOPER/ PROPERTY OWNER shall maintain their respective roadway pavement in a condition sufficient to accept the detection equipment associated with the traffic signal system. The MUNICIPALITY and DEVELOPER/ PROPERTY OWNER shall effect pavement repairs as necessary or within two months of written notice, which notice shall be served upon the Clerk of the MUNICIPALITY and DEVELOPER/PROPERTY OWNER. If the pavement is not repaired or replaced, the COUNTY reserves the right to terminate the Agreement and/or, upon thirty day written notice, to perform the roadway pavement work. The MUNICIPALITY and DEVELOPER/PROPERTY OWNER shall be responsible for all costs incurred by the COUNTY in the performance of this roadway pavement work in their portions. If Developer/Property Owner/Municipality fails to perform pavement repair or reimburse repair cost to the County, the County will seek legal means to resolve the dispute.

**SECTION 13.** Inlet Castings shall conform to the new Storm Water Management Regulations (NJAC 7:8), Cast Iron Curb Piece for inlets shall be Campbell Foundry Type N-Eco or equal; and grate for inlets shall be bicycle safe.

**SECTION 14.** The County road when opened pursuant to this resolution and permit shall conform to the most recent restoration designs, plans, details, specifications and method of construction and traffic control devices as required by the County Engineer.

When deemed to be in the best interests of the County and in the sole discretion of the County Road Supervisor after consultation with the County Engineer, the permit to be issued may deny any open cut method and require directional boring or jacking method for installation of utilities across County roads, when it is determined that one (1) or more of the following benefits would be present:

1. The pavement would not be open cut.
2. The pavement integrity would be maintained.
3. Settlement concerns would be eliminated.
4. Vehicular traffic would be maintained along the County road while the work was on-going.
5. Traffic signals would not be affected.

All permits issued under this section shall be subject to the following rules and regulations:

#### **1. Safety**

a. All work shall be conducted in such a manner as to cause the least public inconvenience and to permit the use of the sidewalk by pedestrians, the roadway by vehicles and the flow of water in the gutters. All openings, digging, excavation, piles of material, equipment, machinery, barricades or obstructions, including earth and stone removed from excavation shall be properly guarded at all times to prevent accidents and a sufficient number of lights, lanterns or flares shall be maintained between sunset and sunrise by the person whom such permit has been issued to designate such openings or obstructions during the hours of darkness. Reflective barrels, blinking lights, warning signs, flagman, uniformed traffic officers and all other man-powered equipment as required by or directed by the County Engineer and/or

County Road Supervisor shall be provided.

b. The work area shall be continuously passable by all emergency vehicles during all phases of the work.

c. In the event that the work requires the detour of the vehicular traffic, the permittee shall submit a detour plan for review and approval by the County Road Supervisor, who at his sole discretion, may require the approval of the municipalities involved prior to any road closings.

d. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided, which shall be safe for travel and convenient for users.

2. All existing pavements, road surfaces, sidewalks, curbs, gutters, pipes, manholes, drains, conduits or other installation or fixtures and property liable to be injured, damaged or destroyed shall be properly protected by the person doing any work for which a road opening permit has been issued during the time when such work is being performed and the responsibility for any such damage shall be assumed by the person to whom such permit has been issued.

3. No person shall divert or discharge water into, upon or across any County road or sidewalk so that a nuisance is created or a hazardous condition is caused to exist as a result of the work of the permittee or be cause for the pavement or road surface to be damaged thereby.

4. It shall be unlawful to make any such excavation or tunnel in any way contrary to or at variance with the terms of the permit thereof. Proper bracing shall be maintained to prevent the collapse of adjoining ground, and protection of the workers shall be in accordance with the regulations of the New Jersey Department of Labor and Industry and the Occupational Safety and Health Administration; the excavation shall not have any portion below the surface extending beyond the opening at the surface.

5. No injury shall be done to any pipes, cables, or conduits in the making of such excavations or tunnels. Notice shall be given beforehand to the utility company maintaining any such pipes, cables or conduits or to the officer charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel.

The permittee shall not be authorized to proceed with any excavation until he submits to the County Engineer and County Road Supervisor a reference number stating that NEW JERSEY ONE CALL was notified at:

"NEW JERSEY ONE CALL"  
399 Hoes Lane  
Piscataway, NJ 08854  
1-800-272-1000

All work by the permittee shall be done in accordance with the provisions of N.J.S.A. 34:6-47.1 et.seq., and in accordance with the provisions of the Federal Occupational Safety and Health Act of 1970 and of subpart N, Paragraph 1926.550 of the Rules and Regulations issued under said act.

6. No work shall occur in such a manner as to result in damage or destruction of any property of Middlesex County unless this is necessary for completion of the work and written permission has been obtained in advance from the County Engineer and/or County Road Supervisor.

7. The permittee shall clean up and remove promptly from the work site at the end of each work day, all surplus excavated material and debris, and upon final completion of the project shall leave the site of work in a neat and orderly condition as good as it was previously.

Where top soil, seeded areas or sod are disturbed in the course of the work, permittee shall restore such ground surfaces to a condition equal to that prior to commencement of work.

8. If a permittee shall fail to comply with the rules and regulations as provided in this Section, within forty-eight (48) hours after receipt of written notice, then the County reserves the right to take any action to

insure compliance with the Section. In that event, the permittee shall be charged with the cost of same at a rate determined by the County Engineer and/or County Road Supervisor, or their designee based on annual County Contract rates, if such are in effect, or a certain schedule of costs maintained by the County Engineer, based on the rates in the contractor's blue book plus fifteen (15%) percent. The expense incurred shall be deducted from the deposit, if any, posted by the permittee. Permittee shall be responsible for the expense incurred by the County, if the surety is insufficient to cover such expenses. Any monies due to the County in excess of the deposit shall be billed upon completion of the work and shall be paid by the permittee within thirty (30) days after the receipt of the bill. Failure to pay such dues shall result in the permittee paying the maximum interest rate allowed by law, as well as any attorneys' fees and costs incurred by the County in furtherance of the collection of said monies.

The County Engineer and/or County Road Supervisor shall also have the authority to deny all future permits until differences identified above are corrected to the satisfaction of the County Engineer and County Road Supervisor.

**NON-LIABILITY OF COUNTY.** The County shall not be liable for damages for any personal injuries or damage to property sustained as the result of any excavation or opening in any street made by any person by virtue of the provisions of this chapter.

Neither the County nor any of its employees shall be deemed to be the agent or the servant of the permittee for any of the purposes of this section.

**INDEMNIFICATION.** Every permittee shall, as a condition for accepting any permit issued hereunder, save and hold harmless the County and indemnify the County, its officers, agents, servants and employees from and against any and all loss, damage, claim, expense or demand whatsoever arising out of any matter or resulting of the opening of any street and the issuance of a permit therefore as provided in this section.

**RELEASE OF DEPOSIT OR BOND.** No security deposit, certified check or performance bond shall be released until all repairs, payment of all monies due to the County pursuant to this resolution, and the restoration and repaving of excavated areas to the satisfaction of the County Engineer and/or County Road Supervisor or their designee are completed and a one (1) year guarantee period, if required, in a form acceptable to County Counsel is in place to insure proper installation and maintenance. Deposits and bonds shall be released only by a resolution by the Board of Chosen Freeholders.

**SECTION 15.** Within twenty-four (24) hours after the work is performed for which the opening was made, road repair and backfilling shall be done in accordance with details prepared by the County Engineer which accompanied the permit. Excavated material shall not be used as back-fill unless approved by the County Engineer or County Road Supervisor. Backfilling with clay or heavy black loam shall not be permitted. Temporary pavement or patch work shall not be permitted. In all cases the opening shall be restored, as nearly as possible, to the grade, slope and profile that prevailed at the time of the opening as directed by the County Engineer or County Road Supervisor.

**SECTION 16.** The permittee shall notify the County Department of Highways in writing at least forty-eight (48) hours in advance of any land disturbance activity. Likewise the permittee shall notify the Department of Highways at the completion of the activity or project. Failure to provide such notification may result in additional inspection fees being imposed on the permittee. The contractor must notify the Permit Clerk for a final inspection. **If the final inspection has not been requested within one year from date of permit, all or part of the monies shall be subject to forfeiture to Middlesex County. The Contractor may request in writing to the County Road Supervisor an extension of the one-year time limit.**

The permittee shall keep a copy of the Road Opening Permit at the site at all times. The permittee shall retain full responsibility for any damages which may result from any construction activity notwithstanding any approvals, in writing, from the County Road Supervisor.

The excavation and the work required to be done shall be completed within reasonable time. Trenches shall not be kept open when work is not in progress. If work is stopped for more than 24 hours, the trench shall be temporarily back-filled. Upon completion of work, it shall be inspected by the County Engineer and/or County Road Supervisor or their authorized representative. If found satisfactory, the deposit of the permittee shall be returned to the permittee. The permittee shall start work within 10 days of issuance of permit and the permit shall remain valid for 50 calendar days from the start of work. If work on the permit does not start in 10 days then the permit shall expire and a new permit shall be obtained, unless a written extension is obtained from the County Engineer or County Road Supervisor. The validity of a permit may be extended, if so requested, in writing by permittee prior to the expiration period thereof for such additional periods as determined by the County Engineer or County Road Supervisor.

**SECTION 17.** In the event the repairs are not performed within a reasonable time after the opening or in the event the County Engineer and/or County Road Supervisor, or their representatives, do not approve the replacement, the permittee shall be so notified in writing and shall be given a reasonable time to correct the deficiencies. Upon failure of the permittee to correct said deficiencies, the County Engineer and/or County Road Supervisor, or their representative, shall cause the County road to be properly repaired and any deposit made by the permittee shall be applied to the cost thereof. The County Engineer or County Road Supervisor shall also have the authority to deny all future permits until deficiencies identified as above are corrected to the satisfaction of the County Engineer and/or County Road Supervisor. Certification of the costs of said repairs shall be made by the County Engineer or County Road Supervisor to the County Treasurer, and the permittee shall be held liable for said costs thereof.

**SECTION 18.** The County Engineer and/or County Road Supervisor, at such time or times as he shall deem necessary, may cause the work being done by the permittee to be inspected by an agent of the County. All expenses resulting from said inspection shall be deducted from the deposit held by the County.

The County Engineer and/or County Road Supervisor may, upon failure of a permittee to comply with the conditions of the permit and upon reasonable notice, stop any work being performed in the Right-of-Way. The County shall have the right to remedy any deficiency and assess the permittee the costs of any remediation said assessments being charged to and deducted from the deposits held by the County. The County Engineer and/or County Road Supervisor may deny any and all future permits to said permittee until trench backfilling, trench restoration and final repair activities shall be scheduled in succession and shall not be fragmented.

**SECTION 19.** In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to secure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such a facility shall apply for an excavation permit not later than the end of the next succeeding day during which the County Department of Highways office is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

**SECTION 20.** Where the permittee is not making progress satisfactory to the County Engineer or County Road Supervisor or violates any provision of the permit, the Board of Chosen Freeholders hereby authorizes the County Engineer and/or County Road Supervisor, to revoke the permit and to replace, by its own repair force, the pavement removed by said permittee on any County Road, Highway, or Bridge, at the expense of the permittee. Written notice shall be given by the County Road Supervisor of intent to make such repairs. The permittee shall complete proposed construction within the time specified in the permit. If not done within this time and if no extension has been obtained, such failure to complete shall be deemed a violation.

**SECTION 21.** The permittee shall maintain vehicular and pedestrian traffic over the roadway within the scope of the project at all times in accordance with the MUTCD.

The permittee shall backfill all excavated areas within the roadway to a grade compatible with the existing traveled way at such times he is not actively working. This shall include nights, weekends, and periods of shut downs.

Trenches shall not remain open overnight under any circumstances.

Roadways and shoulders in areas within which the permittee has actually commenced construction operations and which are reserved for traffic shall be maintained by the permittee, at his expense, free from obstructions and in a smooth riding condition at all times, including seasonal shutdowns.

Escape ramps shall be provided at the edges of pavement lifts or at excavations.

Final responsibility for the installation of adequate precautions and for the protection of the traveling public and his own personnel, for the duration of the work, shall rest with the permittee.

Night time operations shall be in accordance with the current NJDOT Standard Specifications for Road and Bridge Constructions.

Compliance with all prescribed safety precautions contained herein shall not relieve the permittee of this primary responsibility to take all necessary measures to protect and safeguard the public nor relieve him of any responsibilities described in the resolution.

If the excavation extends the full width of the County road, only one-half of it shall be made at one time, and shall be backfilled before the other half is excavated, so as not to interfere with traffic. Where considered necessary, work under permit shall be carried on only within such hours as allotted by the County Road Supervisor. If work cannot be completed within time specified, open trenches shall be backfilled or covered with steel plates of sufficient strength to carry all traffic safely. Exceptions to this regulation may be made only by the County Engineer and/or County Road Supervisor. If, in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the County Engineer and/or County Road Supervisor shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee twenty-four (24) hours a day to the end that such excavation work may be completed as soon as possible. The County Engineer and/or County Road Supervisor shall also have full power to limit the hours of work as the public interest may require.

**SECTION 22.** Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris.

**SECTION 23.** Users of sub-surface street space shall maintain accurate drawing and plans, showing the location and character of all underground structures including abandoned installations. Said drawings and plans are to be kept on file in the office of said users and shall at all times be available for inspection by the County Engineer and/or County Road Supervisor.

**SECTION 24. DUMPSTERS, ROLL-OFFS AND DROP BOXES**

a. No dumpsters, roll-offs, or drop boxes may be placed upon any County roadway or right-of-way without obtaining a permit from the Department of Highways.

b. Before a permit is issued, a written application must be made and presented to the Department of Highways.

c. Such permits shall only be issued to persons or contractors engaging in authorized construction or demolition projects.

d. The County Engineer and/or County Road Supervisor may attach conditions to the permit to ensure health, welfare and safety of the pedestrians and motorists. Dumpsters, roll-offs or drop boxes shall be placed so as not to interfere with pedestrian or vehicular traffic on any street, highway, road or sidewalk.

e. All containers shall be clearly marked with the owner's name, address and business phone number and shall be equipped with reflectors on each side of the container.

f. Each permit shall specify the name and residence of the applicant, the place and/or places where the container is to be located, and time period for which the permit is valid. Additionally, the permit must be visibly exhibited, must be in the possession of the parties at the site and must be exhibited to the city/county inspectors or their authorized representatives upon request. No such permit shall be valid except for place and time specified thereon.

g. Such permits shall be valid for an effective period, not to exceed 30 calendar days, to be determined and specified thereon. Such effective period may be extended, if so requested in writing by the permittee prior to the expiration thereof, for such additional period as the County Road Supervisor, at the latter's discretion, may authorize.

h. The County Road Supervisor shall have the right to revoke or cancel the permit at any time should the permittee fail to comply with any of the terms, agreements, covenants and conditions thereof.

i. The permit shall not be assigned or transferred except upon the prior written consent of the County Road Supervisor.

j. No person(s) or corporation shall be granted a permit to place any dumpster, roll-off, or drop box upon any County roadway or right-of-way unless there shall be deposited with the County by certified check an amount sufficient to secure the repairing and/or replacing such street or other surfaces within the street area as may be determined by the County. The minimum amount deemed sufficient for such purposes is a fifty dollar (\$50.00) fee for each residential permit and a one hundred dollar (\$100.00) fee for each Utility Company and/or commercial permit. Additionally, a one hundred dollar (\$100.00) escrow fee is required.

k. No certified check shall be released until all repairing and replacing of streets or other surfaces of appurtenances within the street area are fully completed to the satisfaction of the County Road Supervisor or his representative.

l. Upon the failure or default by the permittee of any part of the conditions set forth, the deposit may be used by the County for expenses incurred by the County for reasons of such failure or default on the part of the permittee.

m. After the expense of such failure or default has been fully deducted from the amount of deposit, as determined by the County Road Supervisor, the balance shall be refunded to the permittee. The permittee shall

be responsible for the expenses incurred by the County if fee is insufficient to cover such expenses

n. Dumpsters, roll-offs and drop boxes may be used at non-residential, commercial and industrial sites when approval is received by the Department of Highways. All solid waste containers shall comply with all Occupational Safety Health Act (OSHA) and American National Standards Institute (ANSI) regulations and meet or exceed the appropriate Waste Equipment Manufacturers Institute (WEMI) specification. All containers shall be clearly marked with the owner's name, address and business phone number and shall be placed on an asphalt or concrete pad of sufficient thickness and length to allow for the proper loading and unloading without damaging either the pad or adjacent surroundings.

o. All permission is contingent upon local approvals.

**SECTION 25. RESOLUTION APPLICABLE TO COUNTY WORK.** The provisions of this resolution are applicable to all Contractors/Subcontractors performing excavation work under the direction of County authorities by employees of the County or by any contractor/subcontractor of the County performing work for and in behalf of the County necessitating openings or excavations in County roads. All fees will be waived.

**SECTION 26. LIABILITY OF COUNTY.** This resolution shall not be construed as imposing upon the County or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the

County or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work.

**SECTION 27.** Any person, firm or corporation violating any of the provisions of this resolution shall be deemed guilty as a disorderly person, and upon conviction thereof in a Court of competent jurisdiction shall be fined in an amount not exceeding Two Hundred Dollars (\$200.00) or be imprisoned in the County jail for a period not exceeding thirty (30) days, or by both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

**SECTION 28.** If any section, sub-section, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional, by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 29.** Written notification by permittee must be given all utility companies seventy-two (72) hours prior to any County road opening, as regulated by statute.

**SECTION 30.** All resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.

**SECTION 31. If permittee does not comply with all above-mentioned requirements -- this will result in forfeiture of escrow.**

**SECTION 32.** This resolution shall take effect immediately upon its passage, publication and approval according to law.

RESOLUT8  
FEBRUARY 2005