

**BOARD OF CHOSEN FREEHOLDERS
CAPE MAY COUNTY, NEW JERSEY
RESOLUTION**

No. 922-18

**RESOLUTION REVISING PERMIT REGULATIONS FOR OPENING
OR EXCAVATING COUNTY ROADS**

WHEREAS, by County Resolution No. 9465-82, the County established permit regulations for opening or excavating County Roads; and

WHEREAS, applicable regulations and practices have evolved since the County established the permit regulations in 1982; and

WHEREAS, it is the desire of the Board to update and revise the County permit regulations; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Chosen Freeholders of the County of Cape May that the permit regulations for opening or excavating County Roads established by Resolution No. 9465-82 are hereby revised as follows:

SECTION 1: DEFINITIONS

For purposes of this Resolution, the following terms, phases, words and their derivations shall have the meaning given herein:

- A. "Applicant" is any person making written application to the County Board of Chosen Freeholders for an excavation permit hereunder.
- B. "Excavation" is the excavation, opening, or any other work performed under a permit and required to be performed under this ordinance.
- C. "Permittee" is any person who has been grantee and has in full force and effect a permit issued hereunder.
- D. "Person" is any person, entity, firm, partnership, association, corporation, municipality, company or organization of any kind.
- E. "Street" is any street, highway, alley, avenue, or any other public way or public ground, including curb, sidewalk and vegetated areas, in the County of Cape May and under control of Cape May.

SECTION 2: PERMIT REQUIRED

- A. It shall be unlawful, except in an emergency as set forth in Subsection 2, for any person to engage in any of the following activities unless such person shall have first obtained a permit therefore from the Board of Chosen Freeholders as herein provided:
 - 1. To dig up, excavate, tunnel, undermine or in any manner break up any street.
 - 2. To make or cause to be made any excavation in or under the surface of any street for any purpose.

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3. To place, deposit or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street.
 4. To perform any other operation on any street which in any manner interferes with or disturbs the surface of such street.
- B. In the event that any street main, conduit or other utility installation in or under any street, alley or public way shall burst, break or otherwise be in such condition as seriously to endanger persons or property, the owner of such sewer main, conduit or other installation shall immediately remedy such trouble and shall immediately take all such necessary steps to make said location safe and secure. Such owner shall not, however, begin making permanent repairs to such street, or alley until he shall have secured a permit as hereinafter provided. Such permit shall be applied for within three (3) working days after such break or serious trouble shall have developed the necessary permanent repairs to the street, alley or sidewalk shall be made as directed by the County Road Supervisor and shall be completed as soon as practicable after receipt of the permit.
- C. Any person failing to apply for the permit to perform any activity set forth in this section shall be subject to the penalties set forth in this Resolution.

SECTION 3: APPLICATION PROCEDURE

- A. A written application for the issuance of an excavation permit shall be submitted to the Clerk of the Board of Chosen Freeholders. The application shall state the name and address of the applicant, the location and dimensions of the excavation, the purpose of the excavation, the estimated dates of commencement, completion and restoration of the excavation, and such other data as may reasonably be required by the County.
- B. Permittee has the additional responsibility of obtaining a separate permit in accordance with N.J.S.A. 2:170-69.6 when the proposed excavation is located within two hundred (200) feet of a gas pipe line, and all permits issued by the Board of Chosen Freeholders are subject to the issuance of said separate permit. Applicant is further responsible for contacting NJ One Call at 1-800-272-1000 to obtain all utility mark outs, and any other applicable statutes or regulations pertaining thereto.

SECTION 4: PERMIT ISSUANCE

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- A. Upon application and payment of the fees and deposits for which provision is hereinafter made, the County Engineer, in his/her discretion, may issue a permit to excavate or open the surface of any County Road for small opening, which are those openings not considered an extensive opening as noted in Section 4(B) below or involving a drilling operation less than one hundred lineal feet (100lf) in length.
- B. For any extensive opening (those longer than 100 lineal feet or more than 50% of the pavement width), a resolution must be passed by the Board of Chosen Freeholders before any permit can be granted and before any work is commenced. The Freeholder Board may, in its discretion, pass a blanket resolution good for one (1) year, giving utility authorities and municipalities permission to make numerous unspecified extensive openings on County Roads throughout the year, provided proper application forms are filed in the Clerk of the Board's office before commencing work.
- C. Small openings (those less than 100 lineal feet or less than 50% of the pavement width shall exclude single utility service cut that extends from the pavement edge up to and past the roadway centerline) are approved by the Clerk of the Board in consultation with the County Engineer.
- D. No permit shall be issued for any road which has been constructed or reconstructed within a period of six (6) months from the anticipated construction date and no permit will be issued for said road for a period of five (5) years after the roadway has been deemed to be complete in accordance with the project specification and accepted by the Board of Chosen Freeholders.
- E. No permit shall be issued for any road which has been scheduled to be maintenance paved within three (3) months of the anticipated paving date and no permit shall be issued for said road for a period of three (3) years after the roadway has been deemed completed in accordance with the project specifications and accepted by the Board of Chosen Freeholders.
- F. The County Freeholder Board may by resolution waive the five (5) year and three (3) year restrictions mentioned previously.
- G. The County Engineer may, in his or her discretion, for those County Roads which carry exceptionally heavy volumes of traffic, forbid any opening or tearing up or excavation such road except in the event of an emergency situation. The County Engineer may, in its discretion, permit a utility to be jacked and bored or directionally drilled in such case.
- H. No weekend, Holiday or night work shall take place unless prior approval is granted by the County Engineer or an emergency situation exists.

SECTION 5: TIME LIMITATIONS

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- A. Permits shall become null and void unless work is commenced within forty-five (45) days of the issuance of said permit, unless an extension of time is granted in writing by the County Road Supervisor or is otherwise approved by this resolution.
- B. The applicant shall give twenty-four (24) hour notice to the County Engineer or his duly authorized representative, prior to making any road openings, except in cases of emergency as provided in Section 2(B). No opening shall be commenced on a Saturday, Sunday, at night or on a Holiday unless in cases of emergency. If done, inspection must be paid for by the applicant at a rate set by the County.

SECTION 6: FEES AND BOND REQUIREMENTS

- A. Applicants shall be charged a non-refundable application fee of \$25.00 for each permit. In addition, to the application fee, the applicant shall pay fees as follows:
 - 1. Opening of an improved or unimproved road, opening in the right-of-way, behind the curb, or opening the unpaved shoulder in a public right-of-way: An applicant shall pay fees listed in section 6(B) below and shall be required to sign the statement to the effect that all reasonable costs by the County associated with the inspection of a road opening related to the permit shall be paid upon billing and proof of expenditure of the costs to the County.
- B. A permit fee shall be charged by the County for the issuance of a permit, which shall be in addition to all other fees for permits or charges relative to the proposed construction work. The permit fee shall be in an amount varying with the size of the road opening as follows:

1. Size of Trench Opening	Fee
First 5 square yards	\$75.00
6-50 square yards	\$100.00
2. Curb and Gutter Installation Permits	Fee
0-100 feet	\$75.00
Each additional 100 feet	\$25.00
3. Direct Burial Cable:	Fee
Up to 1,500 feet	\$100.00
Over 1,500 feet	\$150.00

The fees apply to cables a maximum width of 6" in shoulder. For cables of greater widths, trench fees apply.

- C. The County may, in its discretion, assess a fifty dollars (\$50.00) per hour on-site inspection fee it is determined that a contractor is not abiding by the permit requirements and requires on-site inspection by the County.

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D. Performance Bond

1. No permit shall be issued hereunder prior to the submission of a performance bond in the amount of \$1,000.00 plus fifty-five dollars (\$55.00) per square yard of paving disturbance. This performance bond shall serve to guarantee that the road openings will be properly closed and that the road, street or highway will be satisfactorily reconstructed.
2. In the alternative, a certified check in the same amount shall be provided with the application.

E. Maintenance Bond

1. No performance bond shall be released prior to the submission of a maintenance bond in the amount of \$15.00 per square yard of excavation. This maintenance bond will serve to guarantee that the road as reconstructed will remain in good condition for two (2) years after the final acceptance.
2. In the alternative, a certified check in the same amount shall be provided with the application.
3. A maintenance bond will not be required if the final restoration is done by the County as specified in Section 11:5(b).

F. A utility company or municipality may, in lieu of giving a separate bond for each project, annually, in January of each year, post a performance bond or a corporate bond in an amount sufficient to encompass the estimated work to be performed by said company during the calendar year; provided, however, that when the openings of trenches exceed the amount of the bond posted, additional bonds and/or cash security will be required.

G. A utility company or authority or a municipality may also name the County as co-holder of their performance and maintenance bonds, provided they are of greater or equal value in projects done by an outside contractor.

H. All checks and bonds under this resolution shall be submitted to the Clerk of the Board and shall be made payable to "Treasurer of Cape May County". Cash will not be accepted; however, a voucher may be accepted from a municipality. The County of Cape May will hold performance bonds until final inspection, and maintenance bonds two (2) years after final acceptance.

I. Openings over 30 feet of continuance installation shall require an inspection fee to be paid by the permittee to the Clerk of the Board at a pro-rated fee of fifty-five dollars (\$55.00) per hour.

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- J. On large scale projects performed by a utility company or authority a municipality, having their own inspector, the County Board of Chosen Freeholders, in its discretion, may waive the County inspection fee if so required by the permittee.

SECTION 7: INDEMNIFICATION AND HOLD HARMLESS CLAUSE

To the fullest extent permitted by law, the applicant upon securing said permit, agrees that it will defend, indemnify and save the County of Cape May harmless from any and all claims of any nature arising out of the construction of road and street opening work covered by said permit, including allegations of negligence against the County related to work covered by said permit, and further that the County of Cape May in issuing said permit shall not assume any fees, costs, damages and/or liability of any nature in connection therewith. In the event of any suit or claim against the County arising out of the construction or work covered by said permit, upon the County's giving written notice to the permittee of such suit or claim, the applicant shall provide a competent defense to the County and any final judgment against the County requiring it to pay for such damage shall be conclusive upon the permittee, and the permittee shall be liable for any of the County's costs in connection with such suit.

SECTION 8: INSURANCE REQUIREMENTS

- A. Prior to performing any work under the permit, the permittee shall deliver to the Clerk of the Board a Certificate of Insurance in the sum of not less than three million dollars (\$3,000,000.) per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following: (A.) Contractual Liability; (B.) Products and Completed Operations; (C.) Independent Contractors Coverage; (D.) Broad Form General Liability Extensions or equivalent; (E.) Deletion of all Explosion, Collapse, and Underground (XCU) Exclusions; (F.) Per contract aggregate; and (G.) worker's compensation insurance at the statutory limits. Permittee shall be obligated to pay for the cost of all such insurance and shall name the County as an additional insured. The insurance policy must remain in effect until the County signs the Certificate of Satisfactory Completion.
- B. On projects done by outside contracts where a utility company or authority or a municipality is requiring a certificate of insurance greater than or equal to the County's requirements, the contractor's policy must name the County as a beneficiary.

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SECTION 9: TRAFFIC

- A. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times, so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public. The permittee shall keep all road and street openings guarded at all times and shall have lights, barriers and adequate safety devices as described in the Manual on Uniform Traffic Control Devices maintained throughout the performance of the work and no greater part of any road shall be opened than that specified in the permit. In cases where there is a lane shift or lane closure, the permittee shall coordinate the traffic control set-up with the local police having jurisdiction, and shall provide uniform police officers at their own expense if directed to do so.
- B. No County Road shall be closed to traffic without the prior consent of the County Road Supervisor. In the event that a road is closed, uniformed police may be required to act as traffic directors and the proper traffic control devices shall be erected and maintained in accordance with standards described in the latest edition of the Manual on Uniform Traffic Control Devices, as published by the Federal Highway Administration. The permittee desiring to close a road to traffic shall notify the Police Department or other proper authority of the municipality in which the opening is to be made. The permittee shall also designate a Traffic Control Coordinator and provide that individual's contact information to the County Road Supervisor prior to commencing any work.
- C. Where flagmen are deemed necessary by the County Road Supervisor, they shall be furnished by the permittee at its own expense. All flagmen are to be certified and trained in accordance with industry standards, or the permittee shall hire a traffic control subcontractor to handle traffic control on its behalf. Through traffic shall be maintained without the aid of detours, if possible. In the instances in which this would not be feasible, the County Road Supervisor will designate detours. The County shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee, but in case there are not existing highways, the permittee shall construct all detours at its own expense and in conformity with the specifications of the County Road Supervisor.

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- D. The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions.

SECTION 10: SAFETY PROTECTIONS

The following measures shall be taken to insure the safety and protection of the traveling public;

- A. Any portions of work area not closed to traffic must be temporarily patched with "daily paving" consisting of hot mix asphalt 2" thick and properly maintained, until final paving is installed.
- B. The permittee shall erect and maintain suitable breakaway barriers and maintain suitable shoring to confine earth from trenches or other excavations in order to encroach upon highways as little as possible.
- C. The permittee shall construct and maintain adequate and safe crossings over excavations and across highway under improvements to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of steel plates of adequate size to accommodate vehicular traffic safety. Pedestrian crossings of timber shall consist of planing three inch (3") thick, twelve inch (12") wide and of adequate length, together with necessary blocking. The walk shall not be less than three feet (3') in width and shall be provided with a railing as required by the County Engineer.
- D. The permittee must call the New Jersey Utility Opening Service at (800)272-1000 and obtain clearances before beginning excavation.
- E. All utilities are to be installed with a minimum of three (3) feet of cover, or as otherwise specified in the Utilities Accommodations Handbook of the New Jersey Department of Transportation. All utilities are to be installed with buried warning tape situated twelve to eighteen inches (12-18") above the utility for future warning during excavation. All utilities within the County right of way are installed for the owner's convenience, and as such, a utility company will be obligated to relocate said utilities at their own expense if future reconstruction of the roadway dictates this need.

SECTION 11: EXCAVATION AND RESTORATION OF ROAD SPECIFICATION

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- A. All work shall be governed by the State of New Jersey Department of Transportation 2007 Standard Specifications for Road and Bridge Construction with all amendments and supplements to govern, including baseline document changes (BDC).
- B. General restoration limits:
1. For an isolated roadway opening that is an opening less than one hundred lineal feet (100lf) and less than half ($\frac{1}{2}$) of the lane width and located at least two hundred lineal feet (200lf) from the next closest opening, the paving restoration limits shall extend a minimum of one (1) foot beyond the trench excavation.
 2. For isolated roadway openings that are located between one hundred lineal feet (100lf) and two hundred lineal feet (200lf) of another, the restoration shall include milling and paving the full lane width in which the openings are located with the milling extending at least twenty lineal feet (20lf) beyond the beginning and ending longitudinal limits of the excavation.
 3. For isolated roadway openings that are located closed than one hundred lineal feet (100lf) to a pre-existing opening, the permittee shall mill and pave an area starting at least twenty lineal feet (20lf) in front of the proposed opening and extending the full lane width to twenty lineal feet (20lf) beyond the last existing opening.
 4. All longitudinal trenches more than one hundred lineal feet (100lf) in length and situated within a travel lane shall be restored by milling and paving the full lane width for the trench length and twenty lineal feet (20lf) beyond the beginning and ending of the trench.
 5. All longitudinal trenches more than one hundred lineal feet (100lf) and occupying an area of disturbance two feet (2') beyond the centerline, shall be restored by milling and paving both lanes of the roadway for the trench length and twenty lineal feet (20lf) beyond the beginning and ending of the trench.
 6. Longitudinal trench openings and isolated trench openings within the shoulder areas shall be restored at least one foot (1') beyond the limits disturbance.
 7. The County reserves the right to require that the openings listed in (1) above include full lane milling for twenty lineal feet (20lf) beyond each end of the trench opening if initial restoration is not acceptable.
- C. For all Openings:
1. The paved roadway surfaces shall be cut vertically with a sharp tool on a straight line before excavating.

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2. The material removed from the trench opening shall not be replaced as backfill.
 3. All trench backfill shall consist of recycled concrete dense graded aggregate placed in eight inch (8") lifts and compacted to at least ninety-five percent (95%) of a standard proctor test. The County reserves the right to have the permittee provide a proctor sample of the material and perform compaction testing by a certified laboratory and provide the results to the County at the permittee's expense.
 4. All road restorations are to be temporarily paved with "daily paving" at day's end unless specifically approved to do otherwise by the County Road Supervisor. Under no circumstances shall roadway be left unpaved for the weekend.
 5. The uncompleted length of road opening allowed under a permit at any one time shall not exceed fifty lineal feet (50lf), unless approved by the County Road Supervisor.
 6. In newly constructed, reconstructed or overlaid asphalt pavements, before placing the bituminous base course, the opening shall be cut back twelve inches (12") beyond the perimeter of the trench opening and a tack coat applied to all joints. The tack coat shall be Asphaltic Oil Grade RC-O or Emulsified Asphalt, Grade 25-2, or equal.
 7. Deleted.
- D. For all openings, the trench opening shall be neat cut, backfilled with compacted dense graded aggregate and temporarily paved with six inch (6") layer to HMA 25m64 base paving. The base paving shall be installed flush with the existing paving and be maintained by the applicant until final paving is installed. The County may waive final paving restoration if the roadway is to be scheduled as part of an upcoming paving project. "Daily paving" may be installed and maintained until the opening receives base paving. Base paving shall be installed at the end of the project or by the weekend, whichever is sooner.
- E. Once the base paving has been installed and after initial settlement has occurred, the final paving shall be installed. Final paving shall occur after initial settlement has taken place, and shall be no sooner than ninety (90) days and no later than one hundred eighty (180) days after base paving was installed.
- F. The permittee has the following alternatives for final restoration.

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1. The permittee shall perform the final paving by milling the top two inch (2") of the base paving off to the limit specified in the general restoration limits listed above. Final paving shall include applying a tack coat, then installing a two inch (2") layer of HMA 12.5m64 surface course. The perimeter of all final paving limits is to be tack sealed.
 2. The permittee may elect to have the County Road Department construct the permanent repair of the trench opening. In such cases, the County Road Department shall perform the work at forty-five dollars (\$45.00) per square yard, payable in advance. The reaper work shall be in conformance to the technical specifications listed in this document. The County Road Department may elect not to make the permanent repair. In such cases, the applicant will be required to complete the final paving.
- G. Openings in Portland cement concrete pavement shall be saw cut to the full concrete thickness. The final restoration shall consist of HMA25m64 base course installed to the thickness to the concrete thickness less two inches (2"). Paving lifts shall not exceed four inches (4"). A two inch (2") thickness of HMA12.5m64 surface as the final paving surface. Requirements of section "E" above apply.
- H. All openings in roadside grassed areas shall be backfilled and leveled with clean granular material to within four inches (4") of the adjacent grade. After proper compaction, four inches (4") of topsoil shall be placed when directed by the County Engineer. Should proper growth not be achieved, the area will be reseeded as necessary.
- I. Road openings and/or trenches involving unusual or special conditions shall be restored in accordance with and pursuant to the direction of the County Engineer.
- J. Any opening or restoration procedure which is not in conformance to the technical specifications listed in this document must be approved by the County Engineer.
- K. Upon completion of work, applicant will request a final inspection by the County Road Supervisor. If the work is completed in a satisfactory manner, a certificate of satisfactory completion will be sent to the Clerk of the Board. Upon receipt of this certificate and upon delivery of maintenance guarantee to the Clerk of the Board, the performance guarantee will be returned.
- L. In any case where the contractor has not complied with these regulations to the satisfaction of the County Engineer, the County Engineer, without notice, may cause the work to be done and the cost shall be charged against the Bonding Company.

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- M. The Freeholder Board may, in its discretion, waive or modify the paving regulations noted in this resolution at its discretion.
- N. All traffic control devices, i.e. signs, stripes, etc., removed by the permittee during the opening shall be noted to the County Engineer and shall be replaced during the restoration. Arrangements for replacement by the permittee or by the County Road Department shall be made independent of the alternative chosen above.
- O. Any opening within a road under moratorium, if permitted to be opened, shall be restored to the existing pavement thickness with the full lane milled and repaved to at least twenty lineal feet (20lf) before the beginning of the opening extending to twenty lineal feet (20lf) beyond the end of the opening.
- P. All striping that has been removed as a result of the opening shall be restored within three (3) days of temporary paving completion. In the interim, temporary stick down reflectors are to be installed where directed by the County Road Supervisor.
- Q. If after twenty-four (24) months the opening shows no distress as noted above, then the maintenance bond shall be released.

SECTION 12: INSPECTION

- A. The County Engineer's Office shall periodically inspect all road openings and the repair and resurfacing thereof for the purpose of determining compliance with any conditions imposed on the issuance of the permit and the specifications. The County Engineer's Office may, upon the recommendation of its inspector:
 - 1. Order a temporary stop to any road opening.
 - 2. Order a stop to any work and revoke permit, in which event the County Road Department shall complete, or cause to be completed, the work and declare the applicants cash deposit forfeit, or notify the applicant's surety of an intent to file claim on the bond.
 - 3. Correct any work after notification to the applicant and the neglect or the refusal of the applicant to make corrections as indicated, and upon doing so declare the applicant's cash bond forfeit or notify the applicant's surety of an intent to file a claim on the bond.
 - 4. Take any other action deemed reasonable under the circumstances.
 - 5. Freeze all future utility permits until corrective action is completed on defective work.

SECTION 13: FINES AND PENALTIES

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- A. The penalty prescribed for any violation of this resolution or any section thereof shall be a fine of \$1,000.00 or imprisonment in the County Jail not exceeding ninety (90) days or both. Each day shall be considered a separate offense.
- B. The County will withhold issuance of future permits if the applicant has failed to restore prior road openings in compliance with this resolution.

SECTION 14: EXCEPTIONS

The Board of Chosen Freeholders may waive compliance with any of the terms of this resolution in the case of an application by a federal, state, county or municipal governmental body, department, agency or authority.

SECTION 15: SAVINGS CLAUSE

Should any section, clause, sentence, phrase or provision of this resolution be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this resolution.

SECTION 16: INCONCISTENT RESOLUTIONS REPEALED

All prior resolutions or parts of resolutions inconsistent with this resolution be and the same are hereby repealed to the extent of such inconsistencies.

SECTION 17: ANNUAL REVIEW & ESCALATION

This resolution will be subject to annual review starting January 1, 2020.

The base fees set forth in Section 6 shall increase \$5.00 on every second January following the first January after the adoption of this resolution.

STATEMENT

This Resolution revises the permit regulations established by County Resolution No. 9465-82 for opening or excavating a County Road.

- cc: Engineer's Office
Department of Law
Road Department
Office of Risk & Safety

STATE OF NEW JERSEY } ss.:
COUNTY OF CAPE MAY }

I, Elizabeth Bozzelli, Clerk of the Board of Chosen Freeholders of the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution adopted by the Board at a meeting duly held on the 11th day of December 2018.

Signed, 
Clerk of the Board

RECORD OF VOTE						
Freeholders	Ayes	Nayes	Abstain	Absent	Moved	Second
Mr. Desiderio	✓					
Ms. Hayes	✓					
Mr. Morey	✓				✓	
Mr. Pierson	✓					✓
Mr. Thornton	✓					

√ - Indicates Vote Moved-Resolution Offered Second-Resolution Seconded